

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER  
2018 AND

INVITATION TO JOIN STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN  
NOTIFICATION LIST AND/OR THE STATE ENGINEER'S PRODUCED  
NONTRIBUTARY GROUND WATER NOTIFICATION LIST  
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TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during December 2018, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

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**CASE NO. 17CW3063 - CITY OF WALSENBURG, 525 South Albert Street, Walsenburg, CO 81089-2296** (Please address all pleadings and correspondence regarding this matter to Applicant's attorneys: Richard J. Mehren, Jennifer M. DiLalla, Alison I.D. Gorsevski, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 300, Boulder, Colorado 80302; (303) 443-8782)

Amended Application for Appropriative Rights of Exchange, Approval of Intersystem Substitution, and Quantification of Reusable Return Flows

**HUERFANO COUNTY**

**2. Description of application:** The City of Walsenburg ("City") supplies water to its customers within the City's boundaries, as those boundaries exist now or may be modified in the future, and to its customers outside of the City's boundaries. A map depicting the City's current boundaries is attached to the Amended Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The City derives its water supply from decreed water rights that are diverted from the Cucharas River and its tributaries. The City continues to develop its municipal water supply portfolio, and as a result the City seeks to appropriate and adjudicate certain appropriative rights of exchange to facilitate operation of its municipal water supply system. The City also seeks to quantify reusable return flows available at the City's wastewater treatment facility, for use as a substitute supply and for other uses. Finally, the City seeks approval of a practice of intersystem substitution, whereby the City will transfer water between reservoirs through an accounting operation.

**Appropriative Rights of Exchange 3. Names of structures involved and legal descriptions:**

**3.1 Exchange-from points:** 3.1.1 Walsenburg Ditch Augmentation Station: The City will construct an augmentation station off of the Walsenburg Ditch and down-ditch of the Walsenburg Ditch headgate to release water to the Cucharas River in the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado, within the reach shown on Exhibit B to the Amended Application. The Walsenburg Ditch headgate is located in the NE $\frac{1}{4}$  of Section 17, Township 28 South, Range 66 West of the 6th P.M. (WDID 1600636; UTM: 517744 East, 4163080 North.) 3.1.2 Coler Reservoir Outlet Ditch Outfall: Water is delivered through the Coler Reservoir System Cucharas Delivery Flume, located in the NE $\frac{1}{4}$  of

Section 17, Township 28 S, Range 66 West of the 6th P.M., at a point approximately 1,350 feet from the West line and 2,400 feet from the South line of said Section 17, and from this point to the confluence of the Coler Reservoir System outlet channel and the Cucharas River, located in the NE¼ of the SW¼ of Section 17, Township 28 South, Range 66 West of the 6th P.M., at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17. (WDID 1600590; UTM: 516904 East, 4162387 North.)

3.1.3 Lake Miriam Ditch Outlet Outfall: Water is delivered through a flume located in the SE¼ of the NW¼ of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado. The confluence of the Lake Miriam Ditch Outlet channel and the Cucharas River is also located in the SE¼ of the NW¼ of Section 17, Township 28 South, Range 66 West of the 6th P.M. (WDID 1600591; UTM: 517240 East, 4162743 North.)

3.1.4 Gomez Ditch Augmentation Station Outfall: Water is delivered through the Gomez Ditch Augmentation Station Outfall to the Cucharas River at a point off of the Gomez Ditch and down-ditch of the Gomez Ditch headgate in the SW¼ of Section 9, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado. (WDID 1600587; UTM: 518464 East, 4163370 North.)

3.1.5 City of Walsenburg Wastewater Treatment Facility (WWTF) Outfall: The WWTF Outfall releases water to the Cucharas River in the SW¼ of Section 2, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado. (WDID 1600656; UTM: 521624 East, 4165051 North.)

3.1.6 Confluence of the Huerfano and Arkansas Rivers: Located in the NW¼ of the SW¼ of Section 8, Township 21 South, Range 61 West of the 6th P.M., Pueblo County, Colorado. (UTM: 565196 East, 4231892 North.)

3.1.7 Confluence of the Cucharas and Huerfano Rivers: Located in the SW¼ of the NW¼ of Section 35, Township 24 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. (UTM: 541152 East, 4196790 North.)

3.1.8 Maria Stevens Reservoir Outlet: Water is released to the Cucharas River in the SW¼ of the NW¼ of Section 28, Township 27 South, Range 65 W of the 6th P.M., Huerfano County, Colorado. (UTM: 528381 East, 4168906 North.)

3.1.9 La Veta Town Lake Outlet: Water is released to the Cucharas River in the NE¼ of the SE¼ of Section 16, Township 29 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. (UTM: 498537 East, 4149756 North.)

3.1.10 Bruce Canyon Reservoir Outlet: Water is released to the Cucharas River in the NW¼ of the NE¼ of Section 5, Township 30 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. (UTM: 497898 East, 4147272 North.)

3.1.11 Confluence of Baker Creek and the Cucharas River: Located in the NW¼ of the NE¼ of Section 16, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 490690 East, 4134049 North.)

3.1.12 Confluence of White Creek and the Cucharas River: Located in the NW¼ of the NE¼ of Section 35, Township 30 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 493220 East, 4139438 North.)

**3.2. Exchange-to points:**

3.2.1 Walsenburg Pipeline: The Walsenburg Pipeline diverts water from the Cucharas River at a point in the SW¼ of Section 28, Township 29 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. (WDID 1600637; UTM: 498634 East, 4149150 North.)

3.2.2 Lake Miriam Ditch (a/k/a Coler Inlet Ditch): The Coler Inlet Ditch diverts water from the Cucharas River at a point in the NW¼ of the SE¼ of Section 32, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado. (WDID 1600584; UTM: 508063 East, 4157930 North.)

3.2.3 City Lake Inlet: The City Lake Inlet is a yet to be constructed inlet to the Walsenburg Reservoir (a/k/a City Lake) that will divert water from

the north bank of the Cucharas River within a reach located in Sections 25, 26, 27, 28, 32, and 33, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado, and as shown on Exhibit C to the Amended Application (WDID 1600592.)

**3.2.4 Duran Ditch:** The Duran Ditch diverts water from the Cucharas River for storage in Maria Stevens Reservoir. The headgate is located in the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 29, Township 27 South, Range 65 West of the 6th P.M., Huerfano County, Colorado. (UTM: 526471 East, 4162808 North.)

**3.2.5 La Veta Pipeline Inlet:** The La Veta Pipeline Inlet diverts water from the Cucharas River for storage in La Veta Town Lake. The pipeline inlet is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 5, Township 30 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. (UTM: 497771 East, 4146702 North.)

**3.2.6 Butte Ditch:** The Butte Ditch diverts water from the Cucharas River for storage in Bruce Canyon Reservoir. The headgate is located in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 8, Township 30 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. (UTM: 497147 East, 4145740 North.)

**3.2.7 South Baker Creek Reservoir Inlet:** The South Baker Creek Reservoir Inlet diverts water from Baker Creek for storage in South Baker Creek Reservoir. The inlet is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 17, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 489410 East, 4133609 North.)

**3.2.8 South Baker Creek Dam:** The South Baker Creek Reservoir will be located near South Baker Creek. The dam is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 490398 East, 4133630 North.)

**3.2.9 White Creek Reservoir:** The White Creek Reservoir will be located near White Creek. The reservoir will be located in Sections 14, 15, 22, and/or 23, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 492413 East, 4132589 North.)

**3.2.10 Britton Reservoirs Enlargement Dam:** The enlargement of the Britton Reservoirs will be located near South Fork of the Cucharas River. The dam is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 22, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 491939 East, 4131986 North.)

**3.2.11 Britton Reservoir No. 1 Dam:** Britton Reservoir No. 1 is located near South Fork of the Cucharas River. The dam is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 22, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 492110 East, 4131691 North.)

**3.2.12 South Fork Feeder – Britton Reservoirs Nos. 2 and 3:** The South Fork Feeder diverts water from South Fork of the Cucharas River for storage in Britton Reservoirs No. 2 and 3. The feeder ditch is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 22, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 492147 East, 4131670 North.)

**3.2.13 Deadman Creek Feeder – Britton Reservoirs No. 2 and 3:** The Deadman Creek Feeder diverts water from Deadman Creek for storage in Britton Reservoirs No. 2 and 3. The feeder ditch is located in the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 22, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado. (UTM: 491943 East, 4131621 North.)

**3.3 Exchange reaches:** The reaches of the exchanges are as follows:

**3.3.1 2014 Exchanges:** The “2014 Exchanges,” as described on Table 1 of Exhibit D to the Amended Application, will operate through a reach of the Cucharas River between the furthest downstream terminus at the Gomez Ditch Augmentation Outfall (see Exhibit B to the Amended Application), as described in paragraph 3.1.4 above, and the furthest upstream terminus at the point of diversion for the Walsenburg Pipeline (see Exhibit C to the Amended Application), as described in

paragraph 3.2.1 above. **3.3.2 2017 Exchanges:** The “2017 Exchanges,” as described on Table 2 of Exhibit D to the Amended Application, will operate through a reach of the Cucharas River between the furthest downstream terminus at the location of the City’s WWTF Outfall (see Exhibit B to the Amended Application), as described in paragraph 3.1.5 above, and the furthest upstream terminus at the point of diversion for the Walsenburg Pipeline (see Exhibit C to the Amended Application), as described in paragraph 3.2.1 above. **3.3.3 2018 Exchanges:** The “2018 Exchanges,” as described on Table 3 of Exhibit D to the Amended Application, will operate through reaches of the Huerfano River and its tributaries, including the Cucharas River, South Fork of the Cucharas River, Deadman Creek, and Baker Creek. The maximum exchange reach is between the furthest downstream terminus at the confluence of the Huerfano River and the Arkansas River (see Exhibit E-4 to the Amended Application), as described in paragraph 3.1.6 above, and the furthest upstream terminus at Deadman Creek Feeder – Britton Reservoirs Nos. 2 and 3 (see Exhibit E-1 to the Amended Application), as described in paragraph 3.2.13 above. The points associated with the 2018 Exchanges are shown on Exhibit E to the Amended Application. **4. Sources of substitute supply:**

**4.1 Walsenburg Ditch No. 4, Priority No. 5:** The City owns 27,081 (57.42%) of the 47,165 shares outstanding in the Walsenburg Ditch Company (the “Walsenburg Ditch Shares”). The Walsenburg Ditch No. 4, Priority No. 5 water right was decreed to the Walsenburg Ditch in the amount of 5.9 cfs in the “Read Decree,” entered on June 12, 1889, in the Matter of Priority of Water Rights in Water District No. 16 in the District Court of the Sixth Judicial District of the State of Colorado. By the decree entered in Civil Action 4025, 0.295 cfs of 5.9 cfs decreed to the Walsenburg Ditch was transferred out of the ditch, leaving a total of 5.605 cfs of the 5.9 cfs originally decreed to the Priority No. 5 water right remaining in the Walsenburg Ditch. The City’s 57.42% ownership interest in the Walsenburg Ditch Company represents 3.22 cfs of the 5.605 cfs decreed to the Walsenburg Ditch No. 4, Priority No. 5 water right. In a separate application, the City will seek to change the water rights represented by the Walsenburg Ditch Shares to uses in addition to the decreed irrigation use, including but not limited to use by exchange and use, reuse, and successive use to extinction within the City’s municipal system (the “Change Case”).

**4.2 Gomez Ditch, Priorities Nos. 10 and 124:** The City owns a one-sixth (1/6th) interest in Priorities Nos. 10 and 124 in the Gomez Ditch (the “Gomez Ditch Water Rights”), which are decreed as follows:

**4.2.1 Priority No. 10:** 3.2 cfs, originally decreed in the “Read Decree,” entered on June 12, 1889, in the Matter of Priority of Water Rights in Water District No. 16 in the District Court of the Sixth Judicial District of the State of Colorado. The City’s 1/6th interest in the Priority No. 10 water right represents 0.5334 cfs of the 3.2 cfs.

**4.2.2 Priority No. 124:** 7.0 cfs, originally decreed in the “Killian Decree,” entered on February 23, 1898, in the Matter of the Adjudication of the Priorities to the Use of Water in Water District No. 16 in the District Court of Huerfano County, State of Colorado. The City’s 1/6th interest in the Priority No. 124 water right represents 1.167 cfs of the 7.0 cfs.

**4.2.3 Subsequent decree:** The City’s 1/6th interest in Priorities Nos. 10 and 124 was changed for the City’s uses in the decree entered in Case No. 11CW56, Water Division 2, dated December 26, 2014 (“11CW56 Decree”).

**4.3 Pueblo Board of Water Works leased water:** The Pueblo Board of Water Works (“PBWW”) leases water that is legally available for such purpose under PBWW’s water rights. Leased water supplies may include, without limitation, fully consumable water stored in Twin Lakes

Reservoir (located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West, 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sections 7, 8, 17, 18, 19, and 20, Township 9 South, Range 80 West, 6th P.M. and Sections 10, 11, 12, 13, 14, and 15, Township 9 South, Range 81 West, 6th P.M., in Lake County), or Clear Creek Reservoir (located in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, 6th P.M. in Chaffee County). The sources of the leased water may include but are not limited to PBWW's water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2.

**4.4 Reusable WWTF return flows:** The City's initial use of the Gomez Ditch Water Rights for direct municipal uses under the 11CW56 Decree will not fully consume the amount of water yielded by the Gomez Ditch Water Rights. Similarly, the City's initial use of the Walsenburg Ditch Shares for direct municipal uses under any decree entered in the Change Case will not fully consume the amount of water yielded by the Walsenburg Ditch Shares; and the City's initial use of the PBWW leased water following diversion by exchange likewise will not fully consume the volume of PBWW water thus diverted. Accordingly, following a first use of the water in the City's system, the Gomez Ditch Water Rights, the Walsenburg Ditch Shares, and/or the PBWW leased water will yield reusable sewered effluent that is released to the Cucharas River from the City's WWTF ("Reusable Return Flows"). The City will use Reusable Return Flows derived from the Gomez Ditch Water Rights and/or the Walsenburg Ditch Shares as a source of substitute supply only following entry of a decree or approval of a substitute water supply plan authorizing the City's reuse and successive use of water attributable to the Gomez Ditch Water Rights, and/or entry of a decree or approval of a substitute water supply plan authorizing the City's reuse and successive use of water attributable to the Walsenburg Ditch Shares (individually or together, "Reuse/Successive Use Approval"). The City's WWTF releases water to the Cucharas River at the location described in paragraph 3.1.5 above.

**5. Date of initiation of appropriations:** 5.1 2014 Exchanges: December 26, 2014. 5.2 2017 Exchanges: November 7, 2017. 5.3 2018 Exchanges: December 18, 2018.

**6. How appropriation was initiated:** 6.1 2014 Exchanges: The City formed its intent to appropriate the 2014 Exchanges during the pendency of Case No. 11CW56. The 11CW56 Decree, which incorporated the operation of exchanges as a mechanism for diversion of the Gomez Ditch Water Rights at upstream locations for the City's subsequent beneficial use, constituted notice to interested parties of the City's intent to exchange the Gomez Ditch Water Rights. The 2014 Exchanges are claimed as existing exchanges for purposes of sections 37-92-302(1)(a) and 37-92-305(10), C.R.S.

6.2 2017 Exchanges: The Walsenburg City Council confirmed its intent to appropriate the 2017 Exchanges and approved the filing of the original application by passing a resolution on November 7, 2017, at its properly noticed public meeting.

6.3 2018 Exchanges: The Walsenburg City Council confirmed its intent to appropriate the 2018 Exchanges and approved the filing of this Amended Application by passing a resolution on December 18, 2018, at its properly noticed public meeting.

**7. Amount claimed:** 7.1 2014 Exchanges: 0.83 cfs, of which 0.75 cfs is claimed as ABSOLUTE based on the City's operation of the exchange at a rate of 0.75 cfs from May 18-20, 2015; and 0.08 cfs

is claimed as **CONDITIONAL**. 7.2 2017 Exchanges: 25.9 cfs, **CONDITIONAL**. The exchange rates for the various intermediate exchanges are set forth on Table 2 of Exhibit D to the Amended Application. 7.3 2018 Exchanges: The exchange rates are set forth in Table 3 of Exhibit D to the Amended Application and in the following exchange matrix (all rates in cfs).

**Exchange-to Point**

	Cucharas River at Duran Ditch, Inlet to Maria Stevens Reservoir	Cucharas River at City Lake Inlet	Cucharas River at Lake Miriam Dich Headgate	Cucharas River at Walsenburg Pipeline	Cucharas River at La Veta Pipeline Inlet	Cucharas River at Butte Ditch, inlet to Bruce Canyon Reservoir	Baker Creek at Inlet to South Baker Creek Reservoir	South Baker Creek at South Baker Creek Dam	White Creek Reservoir
<b>Exchange-from Point</b>									
Confluence of Huerfano River and Arkansas River	37	20	20	20	8	50	77	77	77
Confluence of Huerfano River and Cucharas River	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4
Maria Stevens Reservoir Outlet at Cucharas River	-	20	20	20	8	50	77	77	77
Walsenburg Wastewater Treatment Facility Outfall	-	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9
Gomez Ditch Augmentation Station	-	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83
Walsenburg Ditch Augmentation Station	-	3.2	3.2	3.2	3.2	3.2	3.2	3.2	3.2
Lake Miriam Ditch Outlet Outfall	-	20	-	20	8	20	20	20	20
Coler Reservoir Outlet Ditch Outfall	-	20	-	20	8	20	20	20	20

Town of La Veta Lake Outlet at Cucharas River	-	-	-	20	-	28	28	28	28
Bruce Canyon Reservoir Outlet at Cucharas River	-	-	-	-	8	-	97	97	97
Baker Creek Confluence with Cucharas River	-	-	-	-	-	-	-	-	-
White Creek Confluence with Cucharas River	-	-	-	-	-	-	40	40	-

**Exchange-to Point**

	Britton Reservoir Enlargement	Britton Reservoir No. 1	Britton Reservoir No. 2 and Britton No. 3 - South Fork Feeder	Britton Reservoir No. 2 and Britton No. 3 - Deadman Creek Feeder
<b>Exchange-from Point</b>				
Confluence of Huerfano River and Arkansas River	77	77	77	77
Confluence of Huerfano River and Cucharas River	3.4	3.4	3.4	3.4
Maria Stevens Reservoir Outlet at Cucharas River	77	77	77	77
Walsenburg Wastewater Treatment Facility Outfall	1.9	1.9	1.9	1.9
Gomez Ditch Augmentation Station	0.83	0.83	0.83	0.83
Walsenburg Ditch Augmentation Station	3.2	3.2	3.2	3.2
Lake Miriam Ditch Outlet Outfall	20	20	20	20
Coler Reservoir Outlet Ditch Outfall	20	20	20	20
Town of La Veta Lake Outlet at Cucharas River	28	28	28	28
Bruce Canyon Reservoir Outlet at Cucharas River	97	97	97	97
Baker Creek Confluence with Cucharas River	-	40	40	40
White Creek Confluence with Cucharas River	40	40	40	40

All 2018 Exchanges are claimed as **CONDITIONAL**. **8. Use of exchanged water:** When the source of substitute supply is the Gomez Ditch Water Rights or Reusable Return

Flows derived therefrom, water diverted by exchange will be used consistent with the decreed uses under the 11CW56 Decree and, for the Reusable Return Flows, any applicable Reuse/Successive Use Approval. When the source of substitute supply is the Walsenburg Ditch Shares or Reusable Return Flows derived therefrom, water diverted by exchange will be used consistent with the uses approved by any decree entered in the Change Case or, while the Change Case is pending, by a substitute water supply plan approved under § 37-92-308. In the Change Case, the City will seek a change of the water rights associated with the Walsenburg Ditch shares such that they may be used for all beneficial uses related to the City's municipal water supply and distribution system, including use, reuse, and successive use to extinction for augmentation and replacement purposes and for all municipal purposes, including but not limited to domestic, industrial, commercial, irrigation out of City's municipal system, stock watering, recreation, fish and wildlife preservation and propagation, fire protection, aquifer recharge, sewage treatment, mechanical, manufacturing, street sprinkling, substitution, and exchange purposes. When the source of substitute supply is PBWW leased water or Reusable Return Flows derived therefrom, water diverted by exchange will be used consistent with the underlying decrees for the PBWW leased water. From time to time, to the extent that water diverted by exchange is in excess of the City's needs, the City may make such water available for use by others who contract with the City. Water diverted by exchange may also be delivered to and stored in the following storage structures for subsequent use (see Exhibit F to the Amended Application):

8.1 Lake Miriam Reservoir (a/k/a Horseshoe Reservoir): Located in the W $\frac{1}{2}$  of Section 13, SE $\frac{1}{4}$  of Section 14, and the NW $\frac{1}{4}$  of Section 24, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado.

8.2 Lake Oehm Reservoir (a/k/a Martin Lake): Located in the E $\frac{1}{2}$  of Section 13, Township 28 South, Range 67 West and W $\frac{1}{2}$  of Section 18, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado.

8.3 Walsenburg Water System Reservoir (a/k/a Walsenburg Reservoir, a/k/a City Lake): Located in Section 23, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado.

8.4 Wahatoya Lake Reservoir: Located in the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Section 22 and in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 22, Township 29 South, Range 68 West of the 6th P.M., Huerfano County, Colorado.

8.5 Daire Reservoir: Located in the S $\frac{1}{2}$  of the N $\frac{1}{2}$  of Section 22, Township 29 South, Range 68 West of the 6th P.M., Huerfano County, Colorado.

8.6 Maria Stevens Reservoir: The center of the dam is located in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 28, Township 27 South, Range 65 West of the 6th P.M., Huerfano County, Colorado.

8.7 La Veta Town Reservoir Enlargement: The center of the dam is located in the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 28, Township 29 South, Range 68 West of the 6th P.M., Huerfano County, Colorado.

8.8 Bruce Canyon Reservoir: The center of the dam is located in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 5, Township 30 South, Range 68 West of the 6th P.M., Huerfano County, Colorado.

8.9 South Baker Creek Reservoir: The center of the dam is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado.

8.10 Britton Reservoirs Enlargement: The center of the dam is located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 22, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado.

8.11 White Creek Reservoir: Located in Sections 14, 15, 22, and/or 23, Township 31 South, Range 69 West of the 6th P.M., Huerfano County, Colorado.

**Intersystem Substitution 9. Description:** The City operates a series of interconnected reservoirs that can be filled through the Walsenburg



Pipeline or the Coler Inlet Ditch. Water diverted at the Walsenburg Pipeline flows by gravity first into Wahatoya Reservoir, then to Daigre Reservoir, then to Walsenburg Reservoir (a/k/a City Lake), and then into the “Coler Reservoirs,” which consist of Lake Miriam Reservoir (a/k/a Horseshoe Reservoir) and Lake Oehm (a/k/a Martin Lake). Water diverted at the Coler Inlet Ditch is delivered into the Coler Reservoirs. To be delivered into the City’s municipal water system, water must be in storage in Walsenburg Reservoir, from which it is taken into the City’s water treatment facility. The City seeks authorization to use a “bookover” operation in its accounting to substitute water derived from the Gomez Ditch Water Rights, Walsenburg Ditch Shares, and/or Reusable Return Flows that is in storage in the Coler Reservoirs, for water in storage in Walsenburg Reservoir (“Reservoir Substitution”). The City will operate this Reservoir Substitution without making a physical release of water; instead, the City will demonstrate the transfer of water between the Coler Reservoirs and Walsenburg Reservoir as a bookover in the accounting. The operation of the Reservoir Substitution will be instantaneous. 9.1 Source of water for the Reservoir Substitution: Gomez Ditch Water Rights, Walsenburg Ditch Shares, and/or Reusable Return Flows in storage in the Coler Reservoirs. 9.2 Amount of substituted water: Operation of the substitution will not exceed the amount of water in storage in the Coler Reservoirs under the Gomez Ditch Water Rights, Walsenburg Ditch Shares, and/or Reusable Return Flows. **Quantification of Reusable Return Flows** 10. Quantification of Reusable Return Flows: The City seeks to decree the methodology by which it will quantify the Reusable Return Flows, which the City will use as a source of substitute supply in the appropriate rights of exchange to be decreed herein, and for all purposes for which the Gomez Ditch Water Rights, the Walsenburg Ditch Shares, and the PBWW leased water now or ultimately are decreed or administratively approved to be reused and successively used, including without limitation under the 11CW56 Decree and any Reuse/Successive Use Approval, including any decree entered in the Change Case. The City also seeks the Court’s confirmation that the City can and will retain dominion and control over the Reusable Return Flows. WHEREFORE, the City of Walsenburg respectfully requests that the Court enter a decree confirming the City’s claimed appropriate rights of exchange, approving the City’s Reservoir Substitution, approving the City’s methodology for quantifying the Reusable Return Flows and confirming that the City can and will retain dominion and control over the Reusable Return Flows, and granting all such additional relief as the Court may determine necessary or desirable.

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**CASE NO. 2018CW11 – GOLD BASIN MINE, LLC, Lauren Leffingwell (Member), 17000 Wadsworth Road, Old Mill Creek, IL 60083; (847) 828-5300**

Application for Approval of Plan for Augmentation, as amended

**CHAFFEE COUNTY**

**Name of structures to be augmented:** Gold Basin Mine Placer Ponds. **Are structures decreed:** No. **Are there other water rights diverted from this structure?** No. **Legal description of structures:** UTM Coordinates (Zone 13; Units in Meters; NAD 83 Datum): Pond #1: 13S 382782.00 m E; 4321269.00 m N; Pond #2: 13S 382799.00 m E; 4321282 m N; Pond #3: 13S 382820.48 m E; 4321290 m N; Pond #4: 13S 383047 m E; 4321561.00 m N; Pond #5: 13S 383048.00 m E; 4321566.00 m N. See Attachment 1 and Figure 2 on file with the Application. (All exhibits mentioned herein are incorporated

by reference and may be inspected at the office of the clerk of this Court.) **Street Address:** 26020 County Road 398, Granite, CO 81228. **Source of UTM:** Google Earth 12.13.2018. **PLSS Description:** Chaffee County, NW ¼ of SE ¼ Section 5, Township 12 South, Range 80 West, 6<sup>th</sup> P.M., 2225 feet from South line and 1450 feet from East line. (See Figure 3 to the Application). **Water rights to be used for augmentation:** Date of original and all relevant subsequent decrees: April 16, 1993; Case No.: 86CW79. See Attachment 1 on file with the Application. Court: District Court, Water Division 2 – John R. Tracey, Water Judge. Type of Water Right: Surface. Legal description of each point or diversion storage structure: Pearson Placer – SE ¼ NW ¼ SE ¼, T12S, R80W, 6<sup>th</sup> PM, Chaffee County, Colorado. Source of water: Headwaters of Cache Creek, a tributary to the Upper Arkansas River. Appropriation Date: Initial Priority Date June 30, 1947; Recent: 12/31/1986. See Attachment 1 to the Application. Amount decreed: Absolute 15 cfs – non-consumptive use. Amount to be included in this plan for augmentation: 1.2 acre feet. Decreed uses: Gold placer mining on the June, July and Gold Placer (MS54496) Patented Claims. **Does the Applicant intend to change a water right to provide a source of augmentation?** No. **Complete statement of plan for augmentation:** Plan of Operation: The Bold Basin Mine (Owned by Gold Basin Mine, LLC) is in Chaffee County approximately 7.5 miles west of the town of Granite, in the SE ¼ of Section 5, Township 12 South, Range 80 West of the 6<sup>th</sup> P.M. (see Figure 1 to the Application) at an elevation of approximately 12,100 feet. The mine is located on Cache Creek, a tributary of the Arkansas River. Approximately 15 acres within the Gold Basin Mine were disturbed by past mining activities. The placer mine was reactivated in 1992 under the Colorado Division of Reclamation Mining and Safety (“DRMS”) Permit No. M-1992-045. The current permitted mine area (Colorado Division of Reclamation Mining and Safety (CDRMS) – M1992-045) totals 32.3 acres. The mine is characterized as a surface mining operation allowing the removal of gold minerals. A water court decree approved in Case No. 86CW79 for Pearson Placer acknowledges the use of the water from Cache Creek for Placer mining on June Placer, July Placer and Gold Basin patented claims (MS-54496). The decreed amount of diversion for Pearson Placer is fifteen (15) cfs with a priority of June 30, 1947 (however this is junior to all priorities awarded in cases filed prior to 1986). The Applicant is seeking to divert water from Cache Creek under case no. 86CW79 for gold mining activities within the permitted boundary of Permit No. M-1992-045. Water diverted from Cache Creek will be used for washing coarse-grained materials, the fine materials and in the separation process that removes the gold from sand concentrates. The washing process is being done using a total of five settling ponds. The three ponds will be processing material in the upper permitted area where two ponds will be used on the lower portion of the mine permit area. Depletions. Evaporation from the processing ponds is the only water depletion from the gold mining operation. Water will be initially diverted through a screen, a shaker and a sluice box. The water in the upper processing area will be conveyed into the first (#1) of three ponds. (See Figure 2 to the Application). After a period of settling out the fine suspended solids, process water will be decanted into the second pond (#2) to allow additional suspended solids to settle. When the second pond reaches holding capacity, water is gravity fed to the third pond to complete the sediment settling polishing process. A pump will be installed in the third polishing pond to recycle water back through the washing process. The lower processing area consists of ponds labelled #4 and #5. Pond #4 will be used as the initial pond for

containing process water where the process water is decanted into the fifth pond (#5) for settling solids from pond four (#4). Water from pond five will be recycled back from pond 5 through the processing cycle. The maximum water surface area of the settling ponds is estimated as follows: Pond 1-2,735 square-feet; Pond 2-1,485 square-feet; Pond 3-1,360 square feet; Pond 4-2,885 square-feet; and Pond 5-680 square-feet, totaling 9,145 square-feet. The estimated annual gross evaporation is thirty-six (36) inches. (SWSP ID 5724, WDID 1107813). The evaporation depletion under this augmentation plan is 100% consumptive. The five settling ponds do not expose ground water. Computation of evaporation is reduced during the ice-covered period. Based on Gold Basin's mining experience, the ice-covered period occurs during the months of November, December, January, February, March, April and May. Historical access to the site occurs no sooner than June, and typically access later than October has not occurred. When the mining season ends the ponds typically are dry. However, for this augmentation plan, Gold Basin has included the snow-covered evaporation rate in the evaporation estimate. The gross evaporation depletions from the settling pond water surface area that may occur during the assumed ice-covered period (the months of November, December, January, February, March, April, and May) in the event the settling ponds may not be completely covered by ice. Computation of the gross evaporation during any time that the ponds are not completely covered by ice has been determined as the pro-rata amount of the monthly gross evaporation rate distribution amount identified in the State Engineer's General Guidelines for Substitute Supply Plans for Sand and Gravel Pits, for sites above 6,500 feet. The State Engineer's Office (SEO) monthly evaporation distribution factors for sites above 6,500 feet were applied to the annual gross evaporation to determine the monthly gross evaporation (See Table 1 below). Annual stream depletions from the water surface area of the settling ponds were estimated (including surcharge) to be approximately 1.0 acre-foot. The Upper Arkansas Water Conservancy District lease requires an additional 0.2 acre-foot for water conveyance allocation. Under this augmentation plan, Gold Basin's total consumptive use is estimated to be 1.2 acre feet. Since the water will be pumped directly from Cache Creek, the depletions are considered to not have a lagged impact on the stream.

Table 1  
 Monthly Depletion  
 Augmentation Plan  
 Gold Basin Mine  
 Chaffee County, Colorado

**MONTHLY EVAPORATION CALCULATIONS FROM GOLD BASIN<sup>1</sup>**

<u>Month</u>	<u>Monthly Evaporation Distribution</u>	<u>Depletion Monthly/Gallons</u>
January	1.0%	2,502
February	3.0%	6,156
March	6.0%	12,312
April	9.0%	18,468
May	12.5%	25,650

<sup>1</sup> See Table 2 Climatological Data Summary – Leadville, Colorado

June	15.5%	31,808
July	16%	32,834
August	13%	26,677
September	11%	22,573
October	7.5%	15,391
November	4.0%	8,208
December	1.5%	3,078
<b>TOTAL (GALLONS)<sup>2</sup></b>		<b>205,214</b>
<b>TOTAL (ACRE FEET)</b>		<b>0.65 ACRE FEET<sup>3</sup></b>
<b>Surcharge</b>		<b>0.35 ACRE FEET</b>
<b>UAWCD<sup>4</sup></b>		<b>0.2 ACRE FEET</b>
<b>TOTAL CONSUMPTION</b>		<b>1.2 ACRE FEET</b>

**Table 2**  
**Climate data for Leadville, Colorado**

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Year
<b>Record High °F (°C)</b>	56 (13)	54 (12)	61 (16)	65 (18)	80 (27)	82 (28)	85 (29)	83 (28)	80 (27)	72 (22)	66 (19)	56 (13)	85 (29)
<b>Average high °F (°C)</b>	31.1 (-0.5)	33.6 (0.9)	38.9 (3.8)	45.9 (7.7)	56.7 (13.7)	67.5 (19.7)	72.2 (22.3)	69.5 (20.8)	62.7 (17.1)	51.7 (10.9)	38.4 (3.6)	31.1 (-0.5)	50.0 (10.0)
<b>Daily Mean °F (°C)</b>	17.1 (-8.3)	19.0 (-7.2)	24.9 (-3.9)	32.2 (0.1)	41.7 (5.4)	50.2 (10.1)	55.0 (12.8)	53.4 (11.9)	46.8 (8.2)	37.3 (2.9)	25.2 (-3.8)	17.4 (-8.1)	35.0 (1.7)
<b>Average Low °F (°C)</b>	3.1 (-16.1)	4.5 (-15.3)	10.7 (-11.8)	18.6 (-7.4)	26.7 (-2.9)	32.9 (0.5)	37.8 (3.2)	37.3 (2.9)	30.9 (-0.6)	22.8 (-5.1)	12.1 (-11.1)	3.8 (-15.7)	20.1 (-6.6)
<b>Record low °F (°C)</b>	-27 (-33)	-38 (-39)	-30 (-34)	-17 (-27)	7 (-14)	19 (-7)	26 (-3)	23 (-5)	8 (-13)	-7 (-22)	-24 (-31)	-31 (-35)	-38 (-39)
<b>Precipitation inches (mm)</b>	0.66 (16.8)	0.84 (21.3)	0.94 (23.9)	1.06 (26.9)	0.68 (17.3)	0.89 (22.6)	1.75 (44.5)	1.98 (50.3)	1.07 (27.2)	0.74 (18.8)	0.80 (20.3)	0.76 (19.3)	12.17 (309.1)
<b>Snowfall inches (cm)</b>	18.0 (45.7)	18.2 (46.2)	21.5 (54.6)	23.8 (60.5)	8.2 (20.8)	1.8 (4.6)	0.1 (0.3)	0.0 (0)	2.1 (5.3)	10.1 (25.7)	19.5 (49.5)	19.5 (49.5)	142.8 (362.7)
<b>Average Precipitation days (≥0.01 inch)</b>	9	8	10	10	7	6	12	14	9	6	9	9	109

*Source: Western Regional Climate Center*

Leadville has an alpine subarctic climate with cold winters and mild summers, bordering on a cold semi-arid climate. The average January temperatures are a maximum of 72.2 °F (22.3 °C) and a minimum of 37.8 °F (3.2 °C). There are averages of 278 days annually with freezing temperatures, which can occur in any month of the year. The record high temperature was 86 °F (30 °C) on June 23, 1954. The record low temperatures was -38 °F (-39 °C) on February 21, 1995. Average annual precipitation is 12.19 inches (310 mm). The wettest year was 1957 with 22.14 inches (562 mm) and the driest year was 1994 with 8.81 inches (224 mm). The most precipitation in one month was 4.83 inches (123 mm) in January 1996. The most precipitation in 24 hours was 2.10 inches (53 mm) on December 24, 1983. Average annual snowfall is 142.7

<sup>2</sup> Three Foot Estimated annual evaporation (Leadville, Colorado)

<sup>3</sup> One and two tenths (1.2) Acre foot Augmentation Lease Water from the Upper Arkansas Water Conservancy

<sup>4</sup> UAWCD-Upper Arkansas Water Conservancy District

inches (3,620 mm). The most snowfall in one year was 247.9 inches (6,300 mm) in 1996. The most snowfall in one month was 63.2 inches (1,610 mm) in February 1995.

**Replacement.** Gold Basin has determined 1.2 acre-feet of fully consumable water are required to meet regulatory augmentation replacement requirements. The necessary augmentation water will be obtained, by agreement, from the Upper Arkansas Water Conservancy District (“UAWCD”) through the Upper Arkansas Water Activity Enterprise. A copy of the lease agreement with UAWCD (Attachment 3) is on file with the Application. The term of the lease is for 20 calendar years commencing on the date of the execution of the lease. The leased water will be delivered to the Arkansas River at or above the point of depletion at a location to be determined by the District. Releases of replacement water may be made from Twin Lakes Reservoir, which is located above the point of depletion. Releases may be made from Pueblo Reservoir at times there are no intervening calls or exchanges that would be injured by a Pueblo Reservoir release. Operation of this plan will only occur without injury so long as there is not a local call in effect on Cache Creek. Conveyance loss for delivery of augmentation water is subject to assessment and modification as determined by the Water Commissioner and/or Division Engineer. There is one water right on the reach of Cache Creek between the Gold Basin Mine and the confluence with the Arkansas River that may be impacted during drought periods. The Colorado Water Conservation Board (“CWCB”) has an in-stream flow right from the confluence of an unnamed tributary at latitude 39° 02’04”N and longitude 106° 20’10” W to the confluence of the Arkansas River for three (3) cfs from May 1 through September 14; 1.5 cfs from September 15 through November 30; and 1 cfs from December 1 through April 30. The only time flow in Cache Creek is expected to drop near the in-stream flow requirement is in late July, August or September. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Lauren Leffingwell, 17000 Wadsworth Road, Old Mill Creek, IL 60083.

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**CASE NO. 2018CW12; Previous Case Nos. 1997CW162; 2005CW92 and 2012CW86 – OLSON FAMILY TRUST, Shirley Olson Trustee, 29624 Thimbleberry Lane, Evergreen, CO 80439; (303) 674-3537**

Application for Finding of Reasonable Diligence

**CHAFFEE COUNTY**

**Names of structures:** Olson Pond #1; Olson Pond #2 **Describe conditional water rights:** **Date of Original Decree:** December 13, 1999; Case No. 97CW162, Division 2. **Subsequent decrees awarding findings of diligence:** July 25, 2012, Case No. 12CW86, Division 2 and July 19, 2006, Case No. 05CW95, Division 2. **Legal descriptions:** Olson Pond #1: In the SW ¼ of the SE ¼ of Section 26, Township 13 South, Range 79 West, 6<sup>th</sup> P.M., Chaffee County, Colorado, the outlet of which is located approximately 2,450 feet from the east section line and 600 feet from the south section line of said Section 26. Olson Pond #2: In the SW ¼ of the SE ¼ of Section 26, Township 13 South, Range 79 West, 6<sup>th</sup> P.M., Chaffee County, Colorado, the outlet of which is located approximately 2,400 feet from the east section line and 1,150 feet from the south section line of Section 26. **Point of diversion:** Olson Pond #1 and Olson Pond #2: A point on the north bank of Powell Creek in the NE ¼ of the NW ¼ of Section 35, Township

13 South, Range 79 West, 6<sup>th</sup> P.M., Chaffee County, Colorado, being approximately 1,550 feet from the west section line and 1,050 feet from the north section line of said Section 35. **Source of water:** Powell Creek, an intermittent tributary of the Arkansas River, to the Olson Ditch (96CW193, Conditional; 03CW26, Conditional). **Appropriation Date:** December 7, 1997; **Amount:** Olson Pond #1: 4 a.f.; Olson Pond #2: 5 a.f. **Use:** Irrigation and livestock. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** In 2013: the spillway for the pond was completed; fill over the top of dam was finished. Length of dam: 130'; Height – 4'; Spillway – 3.5'. Powell Creek diversion gate set at 6" above invert of outlet pipe. In 2015: Dirt work was performed on pond; culverts were cleaned out; a new culvert was needed due to heavy run off. Pam was put in culvert for reservoir sealing due to run off. Cost of materials, fuel and rental equipment approximately \$1500.

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**CASE NO. 2018CW3046 – MICHAEL ROMERO, 1923 South Road, Pueblo, CO 81006**

(Please address all pleadings and correspondence regarding this matter to Applicant's attorney: David M. Shohet, Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, CO 80921; (719) 471-1212)

First Amended Application for Plan for Augmentation

**PUEBLO COUNTY, COLORADO**

**II. Background and Summary of Plan for Augmentation.** Applicant is the owner of approximately 160 acres located in the NW ¼ of Section 14, Township 20 South, Range 64 West of the 6<sup>th</sup> P.M., Pueblo County, Colorado ("Property"). The Property is shown on the Exhibit A map attached to the Amended Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Property's address is 3900 North 27<sup>th</sup> Lane, Pueblo, Colorado 81006. The Applicant leases the Property for a commercial marijuana grow facility. The Applicant seeks a plan to augment an existing well located at 253 29<sup>th</sup> Lane, Pueblo, Colorado 81006, for the purposes of hauling water to the Property and other properties in Pueblo County for both indoor and outdoor cultivation and irrigation of crop including cannabis (hemp and marijuana), and the associated commercial, domestic, drinking and sanitary needs for the grow facility. **III. Application for Approval of Plan for Augmentation. A. Structures to be Augmented.** The structure to be augmented consists of an existing well known as the "Harvey Well No. 1", Well Permit No. 79890-F (WDID 1406047), located in the SE1/4 of the NE1/4 of Section 35, Township 20 South, Range 64 West of the 6<sup>th</sup> P.M., Pueblo, Colorado. The Harvey Well No. 1 was adjudicated in Case No. W-2341. The decree entered in Case No. W-2341 is attached to the Amended Application as Exhibit B. Although a Plan for Augmentation for the existing well was decreed in Case No. 08CW12, this plan did not allow for the proposed uses applied for here. **B. Water Rights to be Used for Augmentation.** Water rights to be used for augmentation consists of fully consumable water leased from the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). Applicant may seek to transfer this plan for augmentation to a well user group in the future. Applicant may also seek a term and condition in any final decree requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation water pursuant to Section 37-92-305(8), C.R.S. 1. Lease with Pueblo Board of Water Works. Applicant has entered into

a lease for 10 acre-feet of fully consumable water with Pueblo Water. Applicant's lease with Pueblo Water is attached to the Amended Application as Exhibit C ("Lease"). The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water may include Pueblo Water's water stored in Clear Creek Reservoir, from direct flow transmountain water, or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. **C. Statement of Plan for Augmentation.** **1. Diversions and Depletions.** a. Uses. Indoor and outdoor cultivation and irrigation of a crop, including cannabis (hemp and marijuana), and the associated commercial, processing, industrial, domestic, drinking and sanitary needs for a grow facility. b. Diversions. Diversions will occur year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversions under this plan is up to 20 annual acre feet. c. Depletions. Water diverted for all uses will be considered to be one-hundred percent consumptive. d. Return Flows. As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the wells. However, Applicant reserves the right to claim such return flows in the future. **2. Location and Timing of Depletions.** Pumping of the Harvey Well No. 1 will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. Depletions from Harvey Well No. 1 occur to the Arkansas River in the SW1/4 of the SE1/4 of Section 35, Township 20 South, Range 64 West of the 6<sup>th</sup> P.M. Applicant's water resource engineer has generated a Unit Response Function (URF) for the wells using the Glover Method (Glover, 1954). The lagging analysis shows that over 95 percent of the depletions are expected to occur within 23 months of pumping. **3. Replacement Water.** Replacement water to augment the Applicant's well depletions currently totals 10 are-feet from the Lease, less any transit losses, or any such augmentation water applicant may acquire in the future. Current replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of any well under this plan. **D. Name and Address of Owners of Land Upon Which Structures are Located.** The well to be augmented under this plan is located on land owned by B L H Colorado, LLC, whose address is 4909 N. Interstate 25, Pueblo, Colorado 81008-8608. The registered agent for B L H Colorado, LLC, is James E. Campbell, Jr., Inc., P.O. Box 5167, Woodland Park, CO 80866. **V. Remarks.** A. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. C. The Harvey Well No. 1 will be installed and metered as required by the State Engineer. The Harvey Well No. 1 will be equipped with a totalizing flow meter and Applicant will submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the

Division Engineer. The Applicant will also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, the Applicant requests this Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

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**CASE NO. 2018CW3071; Previous Case 2009CW141 - KIM BARICKMAN, P.O. Box 581, Rye, CO 81069** (Please forward all pleadings and correspondence to Applicant's attorney: David M. Shohet, Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921, 719-471-1212).

Application For Finding of Diligence and to Make Absolute in Part

**PUEBLO COUNTY**

**Name of Structures.** Mount Baldy Ditch, Kimberly's Spring, Bear Pond and Kim's Pond.

**Description of Conditional Water Rights: Date of Original Decree:** December 27,

2012. **Case No.:** 09CW141. **Court:** District Court, Water Division 2. **Legal Descriptions:**

**Mount Baldy Ditch.** In the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 35, Township 24S, Range 68W, of the 6<sup>th</sup> P.M., more particularly described by GPS location in UTM format, Zone 13, NAD 83, unit set to True North: Northing 503032, Easting 4196638, Pueblo County, Colorado.

**Kimberly's Spring.** In the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 35, Township 24S, Range 68W, 6<sup>th</sup> P.M., more particularly described by GPS location in UTM format, Zone 13, NAD 83, unit set to True North: Northing 503492, Easting 4196201, Pueblo County, Colorado.

**Bear Pond.** Bear Pond is located in the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , Section 35, Township 24S, Range 68W, 6<sup>th</sup> P.M., more particularly described by GPS location in UTM format, Zone 13, NAD 83, unit set to True North: Northing 503505, Easting 4196391, Pueblo County, Colorado.

**Kim's Pond.** Kim's Pond is located in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 35, Township 24S, Range 68W, 6<sup>th</sup> P.M., Pueblo County Colorado more particularly described by GPS location in UTM format, Zone 13, NAD 83, unit set to True North: Northing 503607, Easting 4196836, Pueblo County, Colorado.

A map showing the approximate location of the above water rights is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Sources of**

**Water:** **Mount Baldy Ditch.** Spring and surface flows in an unnamed tributary to Greenhorn Creek, tributary to the St. Charles River, tributary to the Arkansas River.

**Kimberly's Spring.** Seeps and a spring tributary to Graneros Creek, tributary to Greenhorn Creek, tributary to the St. Charles River, tributary to the Arkansas River.

**Bear Pond.** Kimberly's Spring described herein. **Kim's Pond.** Mount Baldy Ditch and Kimberly's Spring described herein.

**Appropriation Dates:** **Mount Baldy Ditch.** June 29, 2009. **Kimberly's Spring.** September 19, 2007. **Bear Pond.** September 19, 2007. **Kim's Pond.** July 6, 2008.

**Amounts and Uses:** **Mount Baldy Ditch.** 0.15 cfs conditional for irrigation; 0.3 cfs conditional for stock water, fish propagation, fire protection, wildlife, recreation, and storage for those uses. **Kimberly's Spring.** 10 g.p.m. conditional for fish propagation, fire protection, wildlife, recreation and storage for those uses.

**Bear Pond.** 0.021 acre feet conditional for fish propagation, fire protection, wildlife and recreational purposes, with the right to fill and refill. **Kim's Pond.** 1.29 acre feet conditional for fire protection, stock water, fish propagation, wildlife, and recreation, with the right to fill and refill.

Applicant is the owner of approximately 197 acres near the town of Rye, Pueblo County, Colorado. In Case No. 09CW141, the Water Court decreed to Applicant the use



of two conditional surface water rights and two conditional storage rights. These conditional water rights are part of an integrated water supply system for the full development of Applicant's Property. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system to beneficial use. During this diligence period, Applicant has diverted and placed water from the Mount Baldy Ditch and Kimberly's Spring to beneficial use. Applicant has also maintained the diversion structures Mount Baldy Ditch and Kimberly's Spring during this diligence period including annual and seasonal maintenance as necessary to keep the springs flowing and free from debris. Applicant has also stored water diverted with the Mount Baldy Ditch and Kimberly's Spring into Bear Pond and Kim's Pond. Applicant has placed water stored in Bear Pond and Kim's Pond to beneficial uses decreed in 09CW141. Applicant has also maintained Bear Pond and Kim's Pond during this diligence period including annual and seasonal maintenance as necessary. Finally, during this diligence period, Applicant has installed the bypass structure described in Paragraph 20 of the Decree entered in Case No. 09CW141. **Claim to Make Absolute:** In light of the continuous diversion and application of water to beneficial use described in Section V above, Applicant seeks to make absolute the amounts decreed in Case No. 09CW141, as stated below: **Surface Water Rights: Mount Baldy Ditch.** Date water Applied to Beneficial Use: June 1, 2014. Amount: 0.3 c.f.s. Use: Pursuant to C.R.S. § 37-92-301(4)(e), all conditional uses decreed in Case No. 09CW141, which uses are irrigation, stock watering, fish propagation, fire protection, wildlife, recreation and storage for those uses. Description of Place of Use Where Water is Applied to Beneficial Use: Property owned by the Applicant in Section 35, Township 24 South, Range 68 West of the 6th P.M. **Kimberly's Spring.** Date water Applied to Beneficial Use: June 1, 2014. Amount: 10 g.p.m. Use: Pursuant to C.R.S. § 37-92-301(4)(e), all conditional uses decreed in Case No. 09CW141, which uses are fish propagation, fire protection, wildlife, recreation and storage for those uses. Description of Place of Use Where Water is Applied to Beneficial Use: Property owned by the Applicant in Section 35, Township 24 South, Range 68 West of the 6th P.M. **Water Storage Rights. Bear Pond.** Date water Applied to Beneficial Use: June 1, 2014. Amount: 0.021 acre feet. Use: Pursuant to C.R.S. § 37-92-301(4)(e), all conditional uses decreed in Case No. 09CW141, which uses are fish propagation, fire protection, wildlife, and recreation. Description of Place of Use Where Water is Applied to Beneficial Use: Property owned by the Applicant in Section 35, Township 24 South, Range 68 West of the 6th P.M. **Kim's Pond.** Date water Applied to Beneficial Use: June 1, 2014. Amount: 1.65 acre feet. Use: Pursuant to C.R.S. § 37-92-301(4)(e), all conditional uses decreed in Case No. 09CW141, which uses are fish propagation, fire protection, wildlife, and recreation. Description of Place of Use Where Water is Applied to Beneficial Use: Property owned by the Applicant in Section 35, Township 24 South, Range 68 West of the 6th P.M. Applicant owns the land where Mount Baldy Ditch, Kimberly's Spring, Bear Pond and Kim's Pond are located and the beneficial use of the water from these sources will be within the Applicant's property.

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**CASE NO. 18CW3072 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION ("LAWMA"), 310 South 6th Street, P. O. Box 1161, Lamar, Colorado**

**81052** (Please direct all pleadings and correspondence regarding this matter to Applicant's attorneys: Richard J. Mehren, Jennifer M. DiLalla, William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302; (303) 443-8782)

Application for Plan for Augmentation

**BENT COUNTY**

**2. Purpose of application.** LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purposes of this Application are to include additional structures in LAWMA's plan for augmentation, which was decreed on March 8, 2007, in Case No. 02CW181 ("Augmentation Plan"); to add the new use of greenhouse irrigation to the Augmentation Plan; and to adjudicate the consumptive use percentage to be applied to greenhouse irrigation use. Under paragraphs 43 and 44 of the 02CW181 Decree, LAWMA may add new augmented structures and new uses to the Augmentation Plan, and may adjudicate the consumptive use factor to be applied to a new use, by filing an application with this Court. **3. Description of structures to be augmented.** The four wells described in Exhibit A to the Application ("Additional LAWMA Structures"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) As more particularly shown on the map attached to the Application as Exhibit B, the Additional LAWMA Structures are generally located north of the Arkansas River in Bent County, between Limestone Creek on the west and the Town of McClave on the east. The wells are owned by Arkansas River Farms, LLC. The Additional LAWMA Structures are more particularly described as follows: Reyher Well No. 5: SEO ID 6705015; Permit 9010F; Case No. W780; NW ¼ SE ¼ Sec. 24, T22S, R49W, 4000 feet from North line and 2600 feet from East line, Bent County; UTM X 687227, UTM Y 4221126; Elevation 3816; NAD 83 Datum; Source: Arkansas River Valley Fill Aquifer. Reyher Well No. 6: SEO ID 6705013; Permit 9011F; Case No. W780; NW ¼ NW ¼ Sec. 24, T22S, R49W, 29 feet from North line and 1228 feet from West line, Bent County; UTM X 687108, UTM Y 4222261; Elevation 3842; NAD 83 Datum; Source: Arkansas River Valley Fill Aquifer. Reyher Well No. 7: SEO ID 6705012; Permit 9012F; Case No. W780; NE ¼ NW ¼ Sec. 24, T22S, R49W, 1000 feet from North line and 2700 feet from East line, Bent County; UTM X 687116, UTM Y 4222026; Elevation 3835; NAD 83 Datum; Source: Arkansas River Valley Fill Aquifer. Reyher Well No. 8: SEO ID 6705011; Permit 9013F; Case No. W780; SW ¼ NW ¼ Sec. 24, T22S, R49W, 1629 feet from North line and 1113 feet from West line, Bent County; UTM X 687089, UTM Y 4221733; Elevation 3832; NAD 83 Datum; Source: Arkansas River Valley Fill Aquifer. **4. Water rights and other sources of water to be used for augmentation.** Those water rights and other sources of water identified in paragraph 40 of the decree entered in Case No. 02CW181 ("02CW181 Decree"), or identified in the decrees entered in Case Nos. 05CW52 and 10CW85; and those water rights and other sources of water that are added to the Augmentation Plan consistent with paragraph 41 of the 02CW181 Decree. 4.1 Use

of Fryingpan-Arkansas Project water and return flows as augmentation source. The Additional LAWMA Structures are located within the boundaries of the Southeastern Colorado Water Conservancy District, and water pumped from the Additional LAWMA Structures will be used within such boundaries. Accordingly, LAWMA will use Fryingpan-Arkansas Project water to replace depletions caused by the Additional LAWMA Structures. **5. Statement of plan for augmentation**. The amount, timing, and location of depletions from the Additional LAWMA Structures will be determined in accordance with the methodologies approved in the 02CW181 Decree. Under the Augmentation Plan, LAWMA shall account for and fully replace all out-of-priority depletions caused by the Additional LAWMA Structures. LAWMA shall replace such depletions with fully consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and ensures compliance with the Arkansas River Compact. **5.1 Integration into Case No. 02CW181 accounting and projection**. The accounting for operation of the Additional LAWMA Structures will be incorporated into the accounting and projection required by paragraphs 47.E and 47.I. of the 02CW181 Decree. Such accounting will include, without limitation, monthly diversions, monthly unlagged depletions, and monthly lagged depletions for each Additional LAWMA Structure, as well as the fully consumable water sources available for replacement of such depletions. Additionally, in accounting for operation of the Additional LAWMA Structures, LAWMA shall use the integrated accounting forms approved in the decree entered in Case No. 14CW3004 on August 1, 2017. **6. Addition of new use to Augmentation Plan**. One or more of the Additional LAWMA Structures may be pumped, in part, to provide water for greenhouse irrigation. Exhibit R to the 02CW181 Decree does not include greenhouse irrigation as an approved use under the Augmentation Plan and does not assign a consumptive use factor to greenhouse irrigation. Consistent with paragraph 44 of the 02CW181 Decree, LAWMA seeks to add greenhouse irrigation as an approved use under the Augmentation Plan. **7. Adjudication of consumptive use factor for new use**. Also consistent with paragraph 44 of the 02CW181 Decree, LAWMA seeks to adjudicate a consumptive use factor of 100% for the new use of greenhouse irrigation. **8. No additional modification of 02CW181 Decree**. This Application does not seek to modify any provision of the 02CW181 Decree except to include the Additional LAWMA Structures and the new use of greenhouse irrigation in the Augmentation Plan, and to adjudicate a consumptive use factor for greenhouse irrigation. This Application also does not seek a change of water right for any of the water rights identified in paragraph 4 above, or any change to decreed terms and conditions applicable to augmented structures previously included in the Augmentation Plan. WHEREFORE, LAWMA respectfully requests that the Court enter a decree (i) approving the inclusion of the Additional Augmented Structures in the Augmentation Plan; (ii) finding and concluding that LAWMA will fully replace, so as to prevent injury to Colorado senior surface water rights and ensure compliance with the Arkansas River Compact, all out-of-priority depletions caused by pumping of the Additional LAWMA Structures under the Augmentation Plan; (iii) approving the addition of greenhouse irrigation use to the Augmentation Plan; and (iv) finding and concluding that a 100% consumptive use factor for greenhouse irrigation under the Augmentation Plan will prevent injury to Colorado senior surface water rights and ensure compliance with the Arkansas River Compact.

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**CASE NO. 2018CW3073, Water Division 2 and CASE NO. 2018CW3226, Water Division 1 - SHAY MILES, 7330 Matthews Road, Colorado Springs, CO 80908.**

(Please send all pleadings and correspondence to Applicant's attorneys: Chris D. Cummins and Emilie B. Polley at Monson, Cummins and Shohet, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719-471-1212).

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation.

**EL PASO COUNTY.**

Applicant seeks to construct up to seven (7) non-exempt wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single family lots, based on an anticipated subdivision of Applicant's 39.72-acre parcel. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **Application for Underground Water Rights. Legal Description of Wells. Property Description.** All wells will be located on Applicant's approximately 39.72 acre property ("Applicant's Property") anticipated to be subdivided into seven lots of +/-5 acres each. Applicant's Property is depicted on the Exhibit A map attached to the Application, and more particularly described as follows: A portion of the SW $\frac{1}{4}$  of Section 29, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. described as: Beginning at the northwest corner of the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , thence S89°46'29"E along the south line of Whispering Hills Estates as recorded in Plat Book Z-2 at Page 2 of said county records, 1,407.75 feet to the southeast corner thereof, thence N00°58'34"E, 1,327.96 feet to the northeast corner thereof; thence S89°47'26"E 1,246.16 feet to the northeast corner of said SW $\frac{1}{4}$ , said northeast corner also being on the west line of Wildwood Village Unit 3 as recorded in Plat book H-3 at Page 57 of said county records; thence S00°59'16"W along the east line of said SW $\frac{1}{4}$  and the west line of said Wildwood Village Unit 3 and Wildwood Village Unit 4 as recorded in Plat Book M-3 at Page 46 of said county records, 1,366.81 feet; thence N89°46'29"W, 945.48 feet; thence N00°58'34"E 8.50 feet; thence N89°46'29"W 1,708.14 feet to a point on the west line of said SW $\frac{1}{4}$ ; thence N00°58'34"E, 30.00 feet to the point of beginning, El Paso County, State of Colorado. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Proposed Wells.** Applicant proposes that up to seven wells (one well per lot) will be located on the Applicant's Property at specific locations not yet determined ("Miles Wells Nos. 1 through 7"), to be constructed to the Dawson aquifer. **Water Source. Not-Nontributary.** The ground water to be withdrawn from the Dawson aquifer underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. **Nontributary.** The groundwater that will be withdrawn from the Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant's Property is nontributary. **Estimated Rates of Withdrawal and Ground Water Available.** **Estimated Rates of Withdrawal.** Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions.

Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

<b>AQUIFER</b>	<b>NET SAND (Feet)</b>	<b>Avg. Specific Yield</b>	<b>Total Appropriation (Acre Feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre Feet)</b>	<b>Annual Avg. Withdrawal 300 Years (Acre Feet)</b>
Dawson (NNT)	506.8	20%	4,031.1	40.31	13.44
Denver (NT)	473.4	17%	3,200.6	32.01	10.67
Arapahoe (NT)	245	17%	1,656.4	16.56	5.52
Laramie Fox Hills (NT)	190.4	15%	1,135.8	11.36	3.79

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicant requests the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells or use water from the nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). **Well Fields.** Applicant requests that he be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. **Averaging of Withdrawals.** Applicant requests that he be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well

permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. **Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by the Applicant. **IV. APPLICATION FOR PLAN FOR AUGMENTATION. Structures to be Augmented.** The structures to be augmented are Miles Wells Nos. 1 through 7, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from Miles Wells Nos. 1 through 7, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. **Statement of Plan for Augmentation.** Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by seven wells proposed herein for seven residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: **Uses. Household Use Only:** 0.25 acre feet annually within single family dwellings on up to 7 lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.025 acre feet per well, with return flows of 0.225 acre feet per lot. **Landscape Irrigation:** 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. **Horses (or equivalent livestock):** 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. **Hot Tub Use:** 0.006 acre feet (2100 gallons) annually, based upon six fillings per year, with a 50% consumptive use rate. The annual consumptive use for each hot tub is therefore 0.003 acre feet (1050 gallons). Each well will pump a maximum of 0.59 acre feet of water per year per residence for a maximum total of 4.13 acre feet being withdrawn from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.25 acre feet of water per year per residence with the additional 0.34 acre feet per year per residence available for irrigation of approximately 5,920 square feet of lawn and garden and the watering of up to four horses or equivalent livestock on each residential lot. **Depletions.** Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 20.78% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 0.858 acre feet in year 300. Should Applicant's pumping be less than the 4.13 total, 0.59 acre feet per lot, per year described herein, resulting depletions and required replacements will be correspondingly reduced. **Augmentation of Depletions During Pumping.** Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the seven residential wells. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-

evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre feet per residence per year, total of 1.75 acre feet, 1.575 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Miles Wells Nos. 1 through 7, Applicant will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, being 1,135.8 acre feet, accounting for actual stream depletions replaced during the plan pumping period, calculated at 128.93 acre feet, or such greater amounts as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Miles Wells Nos. 1 through 7 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. Remarks. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with pending Division 2 application in Water Division 1 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. Applicant requests a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. Applicant will comply with any lienholder notice provisions set

forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

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**CASE NO. 2018CW3074.** The application filed under this case number was withdrawn.  
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**CASE NO. 2018CW3075 – BROOK and DORIAN A. JONES, P. O. Box 252, Gardner, CO 81040 and OWEN C. and ROBERTA R. COOKINGHAM, P. O. Box 95, Gardner, CO 81040** (Please address all pleadings and correspondence regarding this matter to

Applicants' attorneys: Jeff Hout & Ryan Jarvis, Beattie, Hout & Jarvis, 932 Cooper Ave, Glenwood Springs, CO 81601; 970-945-8659)

Application for Absolute Water Storage Right

**HUERFANO COUNTY, COLORADO**

**Structure:** Papa's Spring. **Location:** NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec 35, T 25 S, R 69 W 6<sup>th</sup> PM approx 1,080 ft from W sec line and 240 ft from N sec line of said Sec 25. also described as Northing: 4187680.8; Easting: 492627.8, Zone 13, NAD 83. **Source:** An area of springs and seeps in the immediate vicinity of the subject structure and local runoff tributary to Maes Creek and or an unnamed trib of Turkey Creek, trib to Turkey Creek, trib to Huerfano & Arkansas Rivers. **Date of appropriation:** 12/05/78. Water applied to beneficial use 12/05/78 for stockwatering and wildlife habitat and 05/15/84 for irrigation and domestic use. **Amount:** 0.5 af, absolute, with right to refill in priority. **Max rate of diversion:** 10 gpm. **Uses:** Irrigation, stockwatering, domestic & wildlife habitat. **Area irrigated:** Approx 5 acres of pasture, plus approx 5,000 sf of gardens and orchard. **Location of irrigated area:** Pasture is located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec 35, T 25 S, R 69 W 6<sup>th</sup> PM. **Surface area:** Approx 11,000 sf. **Vertical height:** Approx 8 ft. **Length:** Approx 250 ft. **Total capacity:** 0.5 af; all active. The embankment and most of the area inundated by the pond are located on Applicants' property; when full, the inundated area extends beyond Applicants' property and onto property currently owned by Chris Silks. Water is released from the pond via  $\frac{3}{4}$ -inch PVC siphon. Owners of land: Applicants and Chris Silks.

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**CASE NO. 2018CW3076 – THE UPPER ARKANSAS WATER CONSERVANCY DISTRICT, acting through the Upper Arkansas Water Activity Enterprise (“UAWCD”), P.O. Box 1090, Salida, CO 81201** (Please direct correspondence to

counsel for Applicant: LAW OF THE ROCKIES, Marcus A. Lock, Atty. Reg. #33048, Kendall K. Burgemeister, Atty. Reg. #41593, Leila C. Behnampour, Atty. Reg. #42754, 525 North Main Street, Gunnison, CO 81230, Phone: 970-641-1903, E-mail: mlock@lawoftherockies.com, kburgemeister@lawoftherockies.com, [behnampour@lawoftherockies.com](mailto:behnampour@lawoftherockies.com).)

Application for Approval of Plan for Augmentation, Change of Water Rights, and Appropriative Rights of Exchange.

**FREMONT, CUSTER AND EL PASO COUNTIES.**

**Nature and purpose of application.** UAWCD obtained decrees for regional augmentation plans (also known as “umbrella plans” or “blanket plans”) that serve portions of Chaffee County and western Fremont County in Case Nos. 92CW84 and 94CW5, as modified and supplemented by several other decrees including Case Nos. 03CW55, 03CW104, and 06CW32 (together, the “Existing Augmentation Plans”). The



Existing Augmentation Plans establish a framework whereby water users who meet certain criteria and who enter into augmentation agreements with UAWCD can participate in one of the Existing Augmentation Plans without being required to obtain an individual plan for augmentation. By this application, UAWCD requests approval of a regional plan for augmentation (“Proposed Plan”) to expand the geographic scope of UAWCD’s augmentation service to include portions of Fremont, Custer, and El Paso Counties. This plan will operate in conjunction with UAWCD’s Existing Augmentation Plans, however, this Application is not intended, nor shall it operate, to reopen or otherwise impact in any way the decrees for UAWCD’s Existing Augmentation Plans. **PLAN FOR AUGMENTATION. Description of structures to be augmented. Types of Structures.** UAWCD will augment surface water and ground water diversion structures that have been accepted into this plan for augmentation, including tributary wells, on-stream reservoirs or ponds, off-stream reservoirs or ponds, direct flow surface diversions, and tributary springs or seepage. These structures shall be referred to as “Augmented Structures,” and may be augmented for any and all beneficial uses. **Location of Structures.** The Augmented Structures and the land where water diverted by an Augmented Structure may be used must be located within the boundaries of the Service Area of the Proposed Plan. The Service Area is divided into two sub-areas, “Area I” and “Area II.” The geographic extent of the Service Area is described in Exhibit A to the Application. The geographic extent of the Service Area, Area I, and Area II is illustrated on Exhibit B to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **Area I.** Area I includes areas where a diversion of water would cause depletions to accrue to the main stem of the Arkansas River or a tributary below a local Controlling Water Right, as defined herein, which can be augmented with the Augmentation Water described below. **Area II.** Area II includes all remaining areas in the Service Area, which are areas where a diversion of water would cause depletions to accrue above a structure that is a Controlling Water Right during certain periods of time but that can be augmented with the available Augmentation Water during other periods of time. Augmented Structures in Area II will only include structures that can be immediately curtailed and have no lagged depletions. The structures that UAWCD believes to be the local Controlling Water Right on the various tributaries within the Service Area are shown on Exhibit C to the Application. **Existing Augmented Structures.** Fremont County Department of Transportation (FCDOT) diverts water from multiple locations throughout the Service Area for maintenance of County Roads. UAWCD will augment out of priority diversions by FCDOT within the Service Area, including but not limited to diversions at the following structures, decreed on August 9, 2018, in Case No. 17CW3040 (Div. 2), for dust suppression, road grading, fire protection, compaction and other transportation-related purposes for specific county transportation projects, and for fire-fighting and fire protection purposes throughout Fremont County, each in the amount of 200 gallons per minute:

Structure	WDID	UTMe	UTMn	Source	Approp. Date	Absolute/ Conditional
FCDOT Nash Ranch Diversion	1201508	466055	4280887	City Creek	3/31/2017	Conditional
FCDOT Oak Creek Campground Diversion	1201509	477225	4238897	Oak Creek	4/30/1998	Absolute

FCDOT Parkdale Diversion	1201510	465997	4259878	Arkansas River	4/30/1998	Absolute
FCDOT Pink House Diversion	1201511	476855	4253859	Arkansas River	3/31/2017	Conditional
FCDOT Taylor Ranch Diversion	1201512	453068	4274253	Cottonwood Creek	4/30/1998	Absolute
FCDOT Thorne Ranch Diversion	1201514	452905	4268309	North Tallahassee Creek	4/30/1998	Absolute
FCDOT Valco Diversion	1201515	484423	4252641	Arkansas River	3/31/2017	Conditional

Diversions from these structures will be augmented as though they are 100% consumptive. **Water rights to be used for augmentation.** The following sources of water will be used for augmentation under the Proposed Plan (“Augmentation Water”): **Twin Lakes Water.** Water available pursuant to shares of Twin Lakes Reservoir and Canal Company owned, leased, or controlled by UAWCD (“Twin Lakes Water”). The shares represent a pro rata interest in native Arkansas River diversions and the Independence Pass Transmountain Diversion System, which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County for storage in Twin Lakes Reservoirs in Lake County, Colorado. Twin Lakes Shares consist of direct flow and storage rights that are available for one hundred percent consumptive use and reuse and a portion are available for augmentation. The water rights producing the pro rata interest of UAWCD are: Colorado River Water Rights: Decrees: Original Decree: Civil Action No. 3082, District Court, Garfield County, August 25, 1936. Relevant Subsequent Decree: Case No. W-1901, District Court, Water Division 5, May 12, 1976. Appropriation Date: August 23, 1930. Points of Diversion: The points of diversion are set forth in the CA-3082 Decree and W-1901 Decree. Source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the CA-3082 Decree and W-1901 Decree. Amount: Direct flow amount for diversions through transmountain tunnels of 625 c.f.s. with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet, and other limitations set forth in the decrees. Decreed Use: Direct flow and storage for irrigation, domestic, commercial, industrial, municipal, and all other beneficial uses. Independence Pass Transmountain Diversion 1994 Supplement: 95CW321 (Div. 5); 240.75 cfs, with an appropriation date of June 8, 1994, for direct flow and storage for irrigation and municipal use by the parties lawfully entitled thereto. Arkansas River Water Rights: Decrees: Original decree: Civil Action No. 2346, District Court, Chaffee County, July 14, 1913. Relevant subsequent decree: Case No. W-3965, District Court, Water Division 2, April 19, 1974. Appropriation Dates: December 15, 1896, and March 29, 1897. Points of Diversion: As decreed in W-3965, Twin Lakes Reservoir is situated in Sections 15-23, T11S, R80W, 6<sup>th</sup> PM, in Lake County. Source: Lake Creek and its tributaries, tributary to the Arkansas River. Use: Storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir that are capable of being served with water by diversion from said Arkansas River. Amount: 54,452 acre-feet (20,645.3 acre-feet under Reservoir Priority No. 3, and 33,806.7 acre-feet under Reservoir Priority No. 4). **Project Water.** Such Fryingpan-Arkansas Project (“Project”) water as Applicant may obtain the right to use from time to time. Applicant is eligible to receive annual allocations of Project water, which it may purchase and use after it is allocated to UAWCD by the Southeastern Colorado Water Conservancy District (“SECWCD”), based on SECWCD’s

principles, policies, rules, and regulations, as such may be amended. Such water may be stored in Turquoise Reservoir, located on Lake Fork Creek in Sec. 19, Township 9 South, Range 80 West, 6th P.M. in Lake County as described in that Decree in Case No. 80CW56 (District Court, Water Division No. 2) dated October 23, 1980, in Twin Lakes Reservoir, located on Lake Creek in Sec. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 30, Township 11 South, Range 80 West, 6th P.M., the dam axis of which intersects Lake Creek at a point whence the SE corner of Sec. 23, Township 11 South, Range 80 West, 6th P.M. bears South 54°13'08" East a distance of 3,803.10 feet, as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County, issued on July 9, 1969 and as modified in Case No. 80CW6 on October 23, 1980, from storage in Pueblo Reservoir, located on the Arkansas River in Sec. 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 66 West, 6th P.M., Sec. 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West, 6th P.M., and Sec. 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, Township 20 South, Range 67 West, 6th P.M., the dam axis of which intersects the Arkansas River whence the NE corner of Sec. 36, Township 20 South, Range 66 West, 6th P.M. bears North 61°21'20" East a distance of 2,511.05 feet, and in other reservoirs to which such water has been moved. The water rights of the Project consist of: West Slope Decrees: The Project diverts surface water from the headwaters of Hunter Creek and the Fryngpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in Civil Action No. 4613, District Court, Garfield County on June 20, 1958 and August 3, 1959, and were modified by the Decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979, and supplemented by the Decree in Case No. 83CW352, District Court, Water Division No. 5, dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel and empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and may be applied to beneficial use within the SECWCD's boundaries; and East Slope Decrees: The Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141, District Court, Chaffee County, dated July 9, 1969, and Civil Action No. B-42135, District Court, Pueblo County, dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6, District Court, Water Division No. 2, dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere. **North Fork Reservoir.** Case Number, Date, and Court of Original Decree: 82CW204, May 23, 1983, nunc pro tunc April 14, 1983, District Court, Water Division 2. Case Number, Date, and Court of Subsequent decrees: 87CW23, May 10, 1988; 94CW17, November 22, 1994; 00CW121, September 20, 2006; 12CW97, February 9, 2013; 13CW3030, December 2, 2013, all in District Court, Water Division 2. Location: SE¼ of Section 5, Township 50 North, Range 6 East, N.M.P.M., in Chaffee County, Colorado. Source: North Fork, South Arkansas River. Appropriation Date: September 9, 1982. Amount: 595 acre-feet (495 acre-feet absolute, 100 acre-feet conditional). Use: irrigation, municipal, industrial, recreational and augmentation uses. **O'Haver Reservoir.** Case Number, Date, and Court of Original Decree: 82CW205, June 28, 1985, District Court, Water Division No. 2, Colorado. Case Number, Date, and Court of Subsequent

Decrees: 88CW75, September 6, 1989, amended July 13, 1990; 95CW207, December 10, 1996; 02CW178, November 25, 2003; 09CW128, March 31, 2011; 13CW3031, November 4, 2013, all in District Court, Water Division 2. Location: Near the center of Section 12, T.48 N. R.7E., N.M.P.M., Chaffee County, Colorado. Source: Gray's Creek by means of O'Haver filler Ditch. Appropriation Date: September 9, 1982. Amount: 193 acre-feet (absolute). Uses: Irrigation, municipal, industrial, augmentation, and recreational. **Water Leased from Board of Water Works of Pueblo, Colorado.** UAWCD has entered into a lease of 202 acre-feet of fully consumable water with Board of Water Works of Pueblo, Colorado (BWWP), for a term of 40 years. With respect to the source of the water to be provided the lease provides in pertinent part that BWWP "will deliver water derived from the Board's shares in the Twin Lakes Reservoir and Canal Co. to the extent that such water is available to the Board. If Board does not have sufficient water from the Twin Lakes Reservoir and Canal Co. to satisfy its delivery obligations under this lease, then the Board may deliver water from other sources of fully consumable water available to the Board including, but not limited to, stored water at Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, Pueblo Reservoir, from direct flow transmountain water or transmountain return flows by exchange." The leased water will be delivered at confluence of Lake Creek and the Arkansas River, or at Pueblo Reservoir. The Twin Lakes water rights are described above. On information and belief, other water rights that BWWP owns or has the right to use and that may also be used to deliver water under the lease include, but are not necessarily limited to: The Ewing Placer Ditch, the Columbine Ditch, the Warren E. Wurtz Ditch, the Wurtz Extension Ditch, the Busk-Ivanhoe System, and the Homestake Project, as each such right was changed in one or more of the following cases: 84CW177 (Div. 2); 84CW177(B) (Div. 2); and 90CW340 (Div. 5). The points of diversion of the foregoing water rights are located in the Colorado River drainage basin. Other water rights may include the Clear Creek Reservoir Second Enlargement, 04CW130 (Div. 2), and BWWP's interest in the West Pueblo Ditch, 90CW55 (Div. 2). **HBL Water Rights: Name of Structure. ALFRED KATZENSTEIN DITCH NO. 1 (aka A. KATZENSTEIN DITCH NO. 1)** (Priority Nos. 51 and 207(B)). Date of Prior Decrees, Case Numbers, and Court. Original Decree: Decree of the Fremont County District Court dated March 12, 1896. Relevant subsequent decrees: 95CW10, August 4, 1998 (changed to augmentation use); 00CW42, February 12, 2001 (added alternate point of diversion); 10CW30, March 10, 2013 (change for use in 06CW32 Plan and storage in Pueblo and DeWeese Reservoirs), all in District Court, Water Division 2. Legal Description: The original decreed location of the A. Katzenstein Ditch No. 1 headgate is on the northeast (left) bank of West Taylor Creek (aka Middle Taylor Creek) at a point whence the West quarter corner of Section 20, Township 22 South, Range 73 West of the 6th Principal Meridian bears North 58° 15' West at a distance of 2,900 feet, such point being in the SE1/4NW1/4 of said Section 20. In Case No. 00CW42, A. Katzenstein Ditch No. 1 was decreed an alternate point of diversion at a point located on the north (left) bank of Middle Taylor Creek in the NE1/4NW1/4 of Section 28, Township 22 South, Range 73 West, 6<sup>th</sup> P.M., Custer County, Colorado, at a point whence the Northwest corner of said Section 28 bears North 86° 31' West a distance of 2,058 feet. Decreed Source: Middle Taylor Creek (aka West Taylor Creek). Appropriation Date: March 30, 1873 (Priority 51) and July 1, 1878 (Priority 207(B)). Total Amount Decreed to Structure: 1.86 cfs. Amount Available to UAWCD. UAWCD's share is calculated pursuant

to the 10CW30 Decree. The quantity of consumable water currently considered to be permanently available to UAWCD is 78.3 acre-feet per year on average. Decreed Uses: UAWCD's interest in the A. Katzenstein Ditch No. 1 water rights are currently decreed for use as source of replacement water for all authorized uses described in the 06CW32 Plan, as the same may be amended from time to time. Name of Structure: **CONQUISTADOR RESERVOIR NO. 1.** Date of Prior Decrees, Case Numbers, and Court: Original decree: District Court, Water Division 2, August 1, 1978, Case No. W-4320. Relevant subsequent decrees: 86CW67, January 9, 1987 (change in place of storage); 95CW10, August 4, 1998 (changed to use in HBL augmentation plan); 00CW3, September 27, 2001 (decreed absolute storage right for 134.6 acre-feet, and the remaining conditional 15.4 acre-feet was declared to be abandoned); 10CW30 (change for use in 06CW32 Plan and storage in Pueblo and DeWeese Reservoirs), all in District Court, Water Division 2. Legal Description: SE1/4 of Section 21, Township 22 South, Range 73 West of the 6th P.M., in Custer County, Colorado. Decreed Source: Middle Taylor Creek at the A. Katzenstein Ditch No. 1 head gate and the A. Katzenstein Ditch No. 1 alternate point of diversion, local surface runoff and groundwater infiltration. Appropriation Date: July 28, 1975 (it may also store water diverted under the A. Katzenstein Ditch No. 1 water rights, with priority dates of March 30, 1873 and July 1, 1878). Total Amount Decreed to Structure: 134.6 acre-feet. Decreed Uses: UAWCD's interest in the Conquistador Reservoir No. 1 water right is currently decreed for use as source of replacement water for all authorized uses described in the 06CW32 Plan, as the same may be amended from time to time. **Friend Ranch Water Rights: Name of structure: Huntzicker Ditch (WDID: 1100600).** Legal description of structure as described in most recent decree that adjudicated the location: About one-half mile from the junction of Little Cochetopa Creek with the South Arkansas River in Section 8, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. A more modern description of the actual location of the headgate is a point in the NE1/4SE1/4, Section 7, Township 49 North, Range 8 East, N.M.P.M., at a point 2,500 feet from the south line and 100 feet from the east line of said Section 7. Under the 07CW111 Decree, the Huntzicker Ditch water right is to be administered for the changed uses at the Hensie Ditch No. 1 point of diversion, described below. Division Engineer's Reported UTM Location: 402604E, 4263430N. Decreed source of water: Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Date: December 31, 1870. Total amount decreed to structure: 0.7 cubic feet per second (cfs). Amount of water that applicant intends to change: 0.5 cfs. **Name of structure: Hensie Ditch No. 1 (WDID: 1100602).** Legal description of structure as described in most recent decree that adjudicated the location: About 20 rods below the mouth of Pass Creek in Section 7, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. A more modern description of the actual location of the headgate is in the SW1/4 SE1/4, Section 7, Township 49 North, Range 8 East, N.M.P.M., at a point 90 feet from the south line and 2,280 feet from the east line of said Section 7. Division Engineer's Reported UTM Location: 401930E, 4262660N. Decreed source of water: Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Date: December 31, 1873. Total amount decreed to structure: 0.3 cfs. Amount of water that applicant intends to change: 0.3 cfs. **Name of structure: Boon Ditch No. 2 (WDID: 1100608).** Legal description of structure as described in most recent decree that

adjudicated the location: North Bank of Pass Creek, about 200 feet from the junction of Pass Creek with Little Cochetopa Creek, Chaffee County, Colorado. A more modern description of the actual location of the headgate is the NW1/4 NE1/4, Section 18, Township 49 North, Range 8 East, N.M.P.M., at a point 200 feet from the north line and 2,450 feet from the east line of said Section 18. Under the 07CW111 Decree, the Boon Ditch No. 2 water right is to be administered for the changed uses at the Velotta Ditch No. 1 point of diversion, described as a point on the north bank of Pass Creek, whence the East Quarter Corner of Section 13, Township 49 North, Range 7 East, N.M.P.M., bears South 74°45' East, 1760 feet. Division Engineer's Reported UTM Location: 401950E, 4262460N. Decreed source of water: Pass Creek, tributary to Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Date: November 30, 1871. Total amount decreed to structure: 1.4 cfs. Amount of water that applicant intends to change: 1.4 cfs. **Name of structure: Hensie Ditch No. 2 (WDID: 1100609)**. Legal description of structure as described in most recent decree that adjudicated the location: About one-half mile from Pass Creek's junction with Little Cochetopa Creek, in Section 7, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. A more modern description of the actual location of the headgate is the SE1/4 NE1/4, Section 13, Township 49 North, Range 7 East, N.M.P.M., at a point 1,680 feet from the north line of said Section 13, and 90 feet from the east line of said Section 13. Under the 07CW111 Decree, the Hensie Ditch No. 2 water right is to be administered for the changed uses at the Velotta Ditch No. 1 point of diversion, described as a point on the north bank of Pass Creek, whence the East Quarter Corner of Section 13, Township 49 North, Range 7 East, N.M.P.M., bears South 74°45' East, 1760 feet. Division Engineer's Reported UTM Location: 401064E, 4262220N. Decreed source of water: Pass Creek, tributary to Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Date: December 31, 1873. Total amount decreed to structure: 0.2 cfs. Amount of water that applicant intends to change: 0.2 cfs. **Name of structure: Mundlein Ditch No. 2 (WDID: 1100597)**. Legal description of structure as described in most recent decree that adjudicated the location: The original decree for the Mundlein Ditch No. 2 Water Right describes the location of its headgate at a point on the East bank of Green Creek, whence the South Quarter Corner of Section 1, Township 49 North, Range 8 [sic] East of the N.M.P.M., bears South 67° 46' East, 3784 feet. The correct Range is 7 East. Division Engineer's Reported UTM Location: 399164E, 4264741N. Decreed source of water: Green Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Date: March 1, 1873. Total amount decreed to structure: 1.74 cfs. Amount of water that applicant intends to change: 0.58 cfs. Original and all relevant subsequent decrees for all of the above water rights (the "Friend Ranch Water Rights"): Civil Action No. 1127, District Court, Chaffee County (6/19/1890); W-294, District Court, Water Division 2 (October 18, 1978); 07CW111, District Court, Water Division 2 (June 13, 2012); 17CW3037, District Court, Water Division 2 (pending). Decreed uses of the Friend Ranch Water Rights: In Case No. 07CW111, the Friend Ranch Water Rights were changed from irrigation use to direct flow and storage for the Town of Poncha Springs's municipal uses in its existing and future service areas including the Friend Ranch, including, without limitation, domestic, commercial, industrial, irrigation, recreational, fire protection, augmentation, exchange and replacement purposes as provided in the 07CW111 Decree. In Case No. 17CW3037, UAWCD is seeking to change

the Friend Ranch Water Rights to allow their use as a source of augmentation or replacement water in all of its Existing Augmentation Plans, and its Rule 14 Plans and other administratively approved plans, in addition to the existing decreed uses by the Town of Poncha Springs. The historical consumptive use of the Friend Ranch Water Rights was determined in Case No. 07CW111 and is not modified herein. **Other Water Rights.** UAWCD may add additional quantities of listed sources of augmentation water (e.g. by purchasing more Twin Lakes Water, receiving an allocation of more Project Water, or amending its lease with BWWP) to this plan without further amendment of this plan and without further proceedings, provided, however, that prior to including such additional water in this Proposed Plan or the Existing Augmentation Plans, Applicant shall notify the Division Engineer of the addition, and shall provide the Division Engineer with a copy of the share certificate, contract, or other document evidencing UAWCD's right to use that water. Additional water rights not already decreed for use in this plan may be added to this plan by separate water court approval or statutorily authorized administrative approval. Notice of such application shall be provided in the manner required by law. The opposers in this case may participate fully in all water court or administrative proceedings pertaining to such applications. Once the application is approved, UAWCD will file notice of such approval in this case. UAWCD's use of any augmentation water under this section must comply with the terms and conditions of the decree entered in this case and any decree or administrative approval permitting use of the water right in this plan. **Complete Statement of Plan for Augmentation.** The Augmentation Water described above will be used to replace out-of-priority depletions from existing and future Augmented Structures. **Determining Diversions and Depletions.** Diversions and out-of-priority depletions from the Augmented Structures will be determined based on the values set forth below. Alternatively, diversions may be metered, with the out-of-priority depletions determined based on the presumptive depletion values set forth below. UAWCD proposes to apply the following presumptive diversion and depletion rates in order to determine out-of-priority depletions: **Lawn and Garden Irrigation.** For lawn and garden irrigation in Area I, the net depletions will be determined by multiplying the number of acres irrigated by the applicable monthly irrigation depletion factor. A proposed set of depletion factors are shown (in inches) in the table below. UAWCD's Existing Plans include irrigation Zones A, B, and C. The Service Area for the Proposed Plan is divided into two zones: Zone A, which uses the same depletion factors as the existing Zone A, and a new Zone D. Zone A is the Service Area north of the Fremont / Custer County line, and Zone D is the area south of the Fremont / Custer County line. The Zones are illustrated on Exhibit D. Sprinkler irrigation diversions can be calculated by dividing the net depletion values by 0.85. Drip irrigation diversions are presumed to be equal to net depletions. Irrigation of crops other than lawn and garden, irrigation in Area II, and application by means other than a sprinkler or drip, requires site-specific depletion analysis engineering.

Month	Zone A	Zone D
April	2.94	1.90
May	4.13	3.77
June	6.02	5.50
July	6.30	4.93

August	5.10	4.34
September	4.10	2.75
October	2.83	0.16
Total (inches)	31.42	23.35
Total (feet)	2.62	1.95

Domestic Livestock. Watering of horses, cows and other domestic livestock is assumed to be 100% consumptive, with net depletions equal to 0.010 acre-feet per year per animal.

In House Uses (With Sewer). For in-house uses where a central sewer system returns water to the same stream from which it is withdrawn by the Augmented Structure, the net depletions will be 0.016 acre-feet per year per single family dwelling. This depletion amount assumes 3.5 people per house using 80 gpd/person with a consumptive use factor of 5%.

In House Uses (With Septic). For in-house uses where a septic tank and leach field is used, the net depletions will be 0.031 acre-feet per year per single family dwelling. This depletion amount assumes 3.5 people per house using 80 gpd/person with a consumptive use factor of 10%.

Recreational Vehicles. For recreational vehicles, where a central sewer system returns water to the same stream from which it is withdrawn by the Augmented Structure, the net depletions will be 0.056 acre-feet per year per every 10 units/spaces (based on a daily use of 100 gallons per space with year-round use). Where a septic tank and leach field is used, the net depletions will be 0.112 acre-feet per year per 10 units/spaces.

RV Bath Houses. For RV bath houses with restrooms and showers, where a central sewer system returns water to the same stream from which it is withdrawn by the Augmented Structure, the net depletions will be 0.02 acre-feet per year per every 10 units/spaces (based on a daily demand of 300 gallons with year-round use). For RV bath houses with restrooms and showers, where a septic tank and leach field is used, the net depletions will be 0.04 acre-feet per year per 10 units/spaces.

Office Buildings. For office buildings, the net depletions will be based on a demand of 15 gallons per day per capita, with 5% consumptive use where a central sewer system returns water to the same stream from which it is withdrawn by the Augmented Structure, and 10% consumptive use for septic and leach field disposal.

Motels. For motels, the net depletions will be based on a demand of 50 gallons per day per capita, with 5% consumptive use where a central sewer system returns water to the same stream from which it is withdrawn by the Augmented Structure, and 10% consumptive use for septic and leach field disposal.

Surface Evaporation for Reservoirs and Ponds. Surface evaporation for on-channel and off-channel reservoirs and ponds will be determined by multiplying the surface area by the applicable monthly depletion factor.

Surface Area. For on channel structures, the net surface area is calculated by subtracting the natural stream channel from the total surface area. For all structures, the surface area will be based on the maximum surface area at full capacity, unless a stage-area-capacity is provided, in which case the surface area may be based on weekly reported stage readings.

Gross Evaporation. The Service Area is divided into two evaporation zones based on elevation. For elevations less than or equal to 6,500 feet, an annual gross evaporation rate of 47 inches will be used. For elevations greater than 6,500 feet, an annual gross evaporation rate of 40 inches will be used. Gross evaporation is used to determine evaporation depletions from off-channel structures, in accordance with the table below.

Net Evaporation. Net evaporation from on channel reservoirs is calculated to take credit for natural depletions to the stream flow that would have resulted if the reservoir were not in existence. The net evaporation



numbers in the table below are based on a deduction for effective precipitation. Alternatively, an applicant may supply an engineering report justifying a deduction for evapotranspiration by pre-existing vegetation that is eliminated during pond construction, subject to review and approval by the Division Engineer on a case-by-case basis.

Elev.	On Channel Net Evaporation		Off Channel Gross Evaporation	
	> 6500 ft.	≤ 6500 ft.	> 6500 ft.	≤ 6500 ft.
Jan	0.00	0.09	0.03	0.12
Feb	0.07	0.11	0.10	0.14
March	0.13	0.15	0.20	0.22
April	0.21	0.26	0.30	0.35
May	0.34	0.39	0.42	0.47
June	0.46	0.50	0.52	0.57
July	0.39	0.47	0.53	0.59
Aug	0.30	0.40	0.43	0.53
Sep	0.31	0.33	0.37	0.39
Oct	0.19	0.22	0.25	0.27
Nov	0.08	0.12	0.13	0.16
Dec	0.02	0.09	0.05	0.12
Total	2.49	3.13	3.33	3.92

These depletions can be further reduced during periods of ice-cover when no evaporation is occurring. Ice covered periods will be required to be recorded and verified by the water commissioner. In the alternative to augmenting evaporation using the Augmentation Water, the water level in an Augmented Structure that stores water may be lowered at the rate of evaporation to avoid creating out of priority evaporation depletions. Fully Consumptive Uses. Diversions for any use not listed above, including dust suppression, construction, bulk water sales, pond filling, and greenhouses may be metered and assumed to be 100 consumptive. Case-by case determinations. Alternatively, diversions and depletions from Augmented Structures that do not fit within the categories above may be measured and calculated on a case-by-case basis subject to approval by the Division Engineer, including commercial and industrial uses, and structures that claim a credit for seepage accretions. Timing of Depletions. Diversions from Augmented Structures may create lagged depletions to the stream depending on the nature and location of the Augmented Structure. Steady State Depletions. Diversions from certain Augmented Structures, such as those serving in-house uses and domestic livestock will be presumed to occur on a year-round basis. Therefore, a steady-state condition will be assumed for these uses such that stream depletions will equal augmentation plan diversions for such uses less applicable return flows. Lagged Depletions. For other uses supplied by well pumping at a distance from the stream, lagged depletions will be calculated for alluvial aquifers using commonly accepted engineering techniques and lagged depletion zones (based on distance to the stream) and specific unit response functions for each zone. Case by case determinations. For uses that do not fit within the steady state year-round use assumption or the alluvial lagged depletion zones, timing of depletions will be determined on a case-by-case basis, subject to the approval of the State and Division Engineer. Replacement of Out-of-Priority Depletions. UAWCD will replace out-of-priority depletions in time, location, and amount by direct application and credit of Augmentation

Water, or by making releases from storage, at or above the Controlling Water Right. For the purposes of this application, a Controlling Water Right is defined as a water right that is placing a valid call on the stream and diverting or utilizing all physically and legally available streamflow, but is not fully satisfied. An instream flow right that is calling but not receiving its full decreed amount shall be considered a Controlling Water Right as against augmented uses that are junior in priority to the instream flow right. **Storage Structures.** UAWCD may, directly or by exchange, store the Augmentation Water in, and make augmentation releases from, any structure where UAWCD has the right to store water, including Pueblo Reservoir, O'Haver Reservoir, North Fork Reservoir, Boss Lake Reservoir, Cottonwood Lake, Rainbow Lake, DeWeese Reservoir, Twin Lakes Reservoir, and Conquistador Reservoir, which structures are located as follows: Pueblo Reservoir (WDID: 1403526): The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section bears North 61° 21'20" East, a distance of 2,511.05 feet, in Pueblo County (Division Engineer's reported location: 524076E, 4235362N); O'Haver Reservoir (WDID: 1103921): Near the center of Section 12, Township 48 North, Range 7 East, NMPM., in Chaffee County (Division Engineer's reported location: 399983E, 4253720N); North Fork Reservoir (WDID: 1103300): In Section 5, Township 50 North, Range 6 East, NMPM, more particularly described as: The northeasterly point of contact of the dam axis with the existing ground is at a point whence the Northwest corner of Section 21, T.50N., R.7E, NMPM, in Chaffee, County, Colorado bears South 68°50' East a distance of 31,920 feet; said point being further described by bearing on the Peak of Granite Mountain of North 23°28' West and by bearing on the Peak of Calico Mountain of North 37°03' East, in Chaffee County (Division Engineer's reported location: 384999E, 4274370N); Boss Lake Reservoir (WDID: 1103920): E½ of Sec. 25 and NE¼ Sec. 29, T. 50 N., R. 6 E. NMPM, in Chaffee County (Division Engineer's reported location: 385004E, 4268662N); Cottonwood Lake (WDID: 1104005): Section 36, Township 14 South, Range 80 West, 6th P.M., in Chaffee County (Division Engineer's reported location: 388969E, 4293209N); Rainbow Lake (WDID: 1103535): S½ Section 19 and N½ Section 30, T.14S., R.79W., 6th P.M. in Chaffee County (Division Engineer's reported location: 390150E, 4296557N); DeWeese Reservoir (WDID: 1303613): The southeasterly corner of the dam of said reservoir is North 41°37' East, and is distant 758.7 feet from the Northeast Corner of Section 20, T. 21 S., R. 72 W., 6th P.M., in Custer County (Division Engineer's reported location: 460703E, 4229165N); Twin Lakes Reservoir (WDID: 1103503): The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the SE corner of Section 23, Township 11 South, Range 80 West of the 6th P.M. bears south 54 degrees, 13 minutes, 8 seconds East, a distance of 3,803.10 feet, in Lake County (Division Engineer's reported location: 387247E, 4326098N); and Conquistador Reservoir (WDID: 1303535): SE ¼ of Section 21, Township 22 South, Range 73 West of the 6th P.M., in Custer County (Division Engineer's reported location: 452098E, 4219247N). The storage structures are illustrated on Exhibit E to the Application. **Procedure to Enter Plan.** UAWCD will use the following procedure to add Augmented Structures to the augmentation plan: A water user who desires to participate in this plan for augmentation will be required to submit to UAWCD an application, on a form provided by UAWCD, stating *inter alia* the type of structure to be augmented, its location, the type of use, any water right decreed to the structure, the type

of wastewater treatment system, and the proposed beneficial uses of the water. The application form may be supplemented or amended from time to time to meet continuing requirements of the State Engineer and Division Engineer. Upon receipt of the application, fees, and appropriate supplemental material, UAWCD shall submit the application and attachments to the Division Engineer, and provide copies to the opposers in the case. The submittal shall identify this plan for augmentation as the plan pursuant to which the structure will operate in order to prevent injury to vested water rights and decreed conditional rights. The Division Engineer will then determine whether the diversion can be administered under this plan. If the application is to augment a surface diversion or storage facility, the Division Engineer shall forward the application to the State Engineer for final approval. If the application is to augment a well, the Division Engineer shall provide UAWCD a written determination of his findings, which shall be submitted to the State Engineer with a well permit application for evaluation pursuant to this plan and C.R.S. § 37-90-137(2). In addition to the notice to opposers, UAWCD shall, on a monthly basis, publish in a newspaper of general circulation in the area in which the any proposed Augmented Structures are located, the names of applicants for augmentation water, together with the street address or other brief description of the diversion location, and notice that applications are available for review by interested parties in the offices of UAWCD during normal business hours. Any affected person may file comments with the State Engineer within sixty days of the date of publication of such monthly notice. Any affected person not satisfied by the State Engineer's determination, may then apply to the District Court, Water Division 2 for a *de novo* hearing, under the court's retained jurisdiction, on the issue of whether the proposed structure can be augmented in accordance with the terms and conditions of this plan, including the requirement to prevent injury to vested water rights and conditional water rights. **Terms and Conditions.** UAWCD proposes to operate this plan pursuant to the terms and conditions set forth in this Application, including the following specific terms and conditions: Exchanges Required. If an exchange is required to be operated pursuant to this plan for augmentation, UAWCD will operate pursuant to a decreed or administratively approved exchange, and UAWCD will obtain all necessary approvals from the Division Engineer and Water Commissioner before operating such exchange. Transit losses. If replacements are to be made by releasing replacement water above the point of depletion, or downstream terminus of an exchange, UAWCD will replace transit losses in accordance with requirements of the Division Engineer. Protection of Intervening Rights. When an Augmented Structure causes out-of-priority depletions that occur above the Controlling Water Right on the Arkansas River or a tributary to the Arkansas River, UAWCD shall replace 100% of those depletions above the Controlling Water Right. When there is a Controlling Water Right between the point of diversion or upstream point of depletion and the lowest point of accretion of return flows, UAWCD shall replace 100% of those diversions above the Controlling Water Right. Project Facilities. Any decree entered in this case will not give UAWCD any rights of use of Fryingpan-Arkansas Project Structures, or any rights of ownership or rights to purchase or receive allocation of Fryingpan-Arkansas Project Water, but does not alter any existing rights that UAWCD may otherwise have. Fryingpan-Arkansas Project Water or return flows therefrom may be used in this augmentation plan only if, and to the extent such water is allocated by SECWCD to UAWCD or a plan participant, and is purchased from SECWCD. UAWCD's

purchase and use of Fryingpan-Arkansas Project Water and of return flows therefrom shall be consistent with the Allocation Principles of SECWCD (as they may from time to time be amended), and the lawful rules, regulations, policies, procedures, contracts, charges and terms as may be lawfully determined from time to time by SECWCD in its discretion. Project Water Use. In order to use Project Water for augmentation purposes under a decree entered in this case, UAWCD must first use any Project Return Flow water that is allocated and available to UAWCD. If Project Return Flow water is not available to UAWCD at appropriate locations for such use, UAWCD may use allocated and available Project Water for augmentation, subject to SECWCD's rules, regulations, policies, procedures, contracts, charges and terms in effect at the time of such allocation. Any decree in this matter will not modify Southeastern's Fryingpan-Arkansas Project water rights decrees. UAWCD will utilize Fryingpan-Arkansas Project Water or return flows therefrom only within the SECWCD boundaries, as a supplemental supply for the decreed uses. UAWCD's augmentation use of such water (including replacement of evaporation loss) will be only to augment or replace depletions resulting from the beneficial use of water within SECWCD's boundaries. UAWCD will not use such Project Water to augment depletions from any structure used to irrigate more than one (1) acre of land, absent prior approval by SECWCD of such irrigation use, based on SECWCD's principles and policies regarding allocation of Project Water as a supplemental supply for irrigation use. Removal of Structures from Plan. UAWCD may remove Augmented Structures from this plan for augmentation, but UAWCD shall augment all lagged out-of-priority depletions caused by the operation of the Augmented Structure while enrolled in the plan. Annual Report of Projected Augmentation. Annually, UAWCD shall project depletions and augmentation supplies for an eight-year period. Such projection and report shall be integrated with, and subject to the terms and conditions of, the projection and report required under paragraph 22.aa of the Decree entered in Case No. 06CW32, Water Division 2 ("06CW32 Decree"). Accounting. UAWCD shall maintain records of augmented structures, amount and times of depletions and augmentation releases, and other data as may be required by the Division Engineer for administration of this plan and provide the same to the Division Engineer as requested. The accounting will be integrated with the accounting for the Existing Augmentation Plans, and subject to the terms and conditions of the 06CW32 Decree. Annual Report. UAWCD shall submit to the Division Engineer an annual report of the actual augmentation operations pursuant to this plan for augmentation for the previous calendar year. UAWCD shall provide a combined report for this plan for augmentation and the Existing Augmentation Plans that complies with the terms and conditions of the 06CW32 Decree. **APPROPRIATIVE RIGHTS OF EXCHANGE. Grape Creek DeWeese Reservoir Exchange, in Custer and Fremont Counties.** Lower terminus: The confluence of Grape Creek and the Arkansas River, located in the NW1/4NE1/4NW1/4 of Section 6, T. 19S, R. 70W, 6<sup>th</sup> P.M. Upper terminus: DeWeese Reservoir, as described above. Amount claimed: 30.24 cfs. Appropriation date: March 23, 2005. Pursuant to C.R.S. § 37-92-305(10), UAWCD seeks to have the exchange administered with a priority date of March 23, 2005. **Pursuant to C.R.C.P. 89, please be advised that this water right may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute, or be forever barred.** The appropriation was initiated by completion of administratively approved

exchange on the date claimed. If for any reason, the claimed exchange cannot be approved as an absolute claim with the priority date claimed, in whole or in part, UAWCD has completed additional exchanges subsequent to the date claimed, which may be used to recognize one or more absolute water rights. If the claimed exchange cannot be made absolute in the amount claimed, regardless of priority date, UAWCD seeks a conditional appropriative right of exchange with an appropriation date of December 31, 2018. The cumulative rate of all exchanges claimed will not exceed 30.24 cfs. **DeWeese Reservoir-Conquistador Reservoir Exchange, in Custer County.** Lower terminus: DeWeese Reservoir, as described above. Upper terminus: Headgates for the A. Katzenstein Ditch No. 1, as described above, as the points of diversion for Conquistador Reservoir. Amounts claimed and appropriation dates: 4.07 cfs, absolute, with an appropriate date of June 10, 2015, and an additional 2.864 cfs, absolute, with an appropriation date of February 16, 2017, for a total rate of 6.934 cfs. Pursuant to C.R.S. § 37-92-305(10), UAWCD seeks to have the exchange administered with priority dates of June 10, 2015, and February 16, 2017. **Pursuant to C.R.C.P. 89, please be advised that this water right may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute, or be forever barred.** The appropriations were initiated by completion of administratively approved exchanges on the dates claimed. If for any reason, the claimed exchanges cannot be approved as absolute claims with the priority dates claimed, in whole or in part, UAWCD has completed additional exchanges that may be used to recognize one or more absolute water rights. If the claimed exchanges cannot be made absolute in the amount claimed, regardless of priority date, UAWCD seeks a conditional appropriative right of exchange with an appropriation date of December 31, 2018. The cumulative rate of all exchanges claimed will not exceed 6.934 cfs. The exchanges may be operated concurrently with the Grape Creek DeWeese Reservoir Exchange to exchange water from the Arkansas River to Conquistador Reservoir. **CHANGE OF WATER RIGHTS.** UAWCD seeks to change the HBL Water Rights to allow use of the consumptive use credits attributable to the HBL Water Rights as a source of augmentation water in the Proposed Plan in addition to their existing decreed uses. These water rights are already decreed for use in the 06CW32 Plan. This change includes changing the place of use to include the Service Area, the place of storage to include all of the storage structures described above, and the type of use to include use as replacement water for all authorized uses under this Proposed Plan, as the same may be amended from time to time, and as a source of substitute supply in UAWCD's 04CW96 exchanges. The amount of the HBL Water Rights that UAWCD intends to change is UAWCD's entire interest in the HBL Water Rights, as described above. The points of diversion are illustrated on Exhibit F attached to the Application. **Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** Pueblo Reservoir: U.S. Dep't of Interior, Bureau of Reclamation, 11056 West County Rd., 18-E, Loveland, CO, 80537-9711 ("Bureau of Reclamation"). O'Haver Reservoir, North Fork Reservoir: United States Department of Agricultural, Forest Service, 5575 Cleora Road, Salida, CO 81201 ("Forest Service"). Boss Lake Reservoir: SALCO ASSOCIATES, L.L.P., 225 G Street, Salida, CO 81201;

and the Forest Service. Cottonwood Lake: Forest Service. Rainbow Lake: Rainbow Lake Resort, Inc., P.O. Box 17450, Oklahoma City, OK, 73136. DeWeese Reservoir: DeWeese-Dye Ditch and Reservoir Company, 1631 Chestnut Street, Canon City, CO 81212. Twin Lakes Reservoir: Bureau of Reclamation. UAWCD holds the right to store water in the lower bay of Conquistador Reservoir, which is on land owned by C. Jean Zeller, PO Box 25, Westcliffe, CO 81252. **Exhibit A to Application**: The Service Area includes all or portions of the following Sections: 16S, 67W, 6th: Sections 30 through 32; 17S, 67W, 6th: Sections 4 through 10, 15 through 22, & 26 through 35; 16S, 68W, 6th: Sections 23 through 27, 35 & 36; 16S, 69W, 6th: Sections 19 through 21 & 29 through 32; 16S, 70W, 6th: Section 5 through 8 & 17 through 36; 16S, 71W, 6th: All Sections; 16S, 72W, 6th: All Sections; 16S, 73W, 6th: All Sections; 17S, 68W, 6th: Sections 1, 12 through 15, 22 through 27 & 31 through 36; 17S, 69W, 6th: Sections 5 through 8, 17 through 20 & 29 through 32; 17S, 70W, 6th: All Sections; 17S, 71W, 6th: All Sections; 17S, 72W, 6th: All Sections; 17S, 73W, 6th: All Sections; 18S, 68W, 6th: Sections 1 through 6, 8 through 17 & 19 through 36; 18S, 69W, 6th: Sections 4 through 9, 11 & 13 through 36; 18S, 70W, 6th: All Sections; 18S, 71W, 6th: All Sections; 18S, 72W, 6th: All Sections; 18S, 73W, 6th: Sections 1 through 6, 12 through 13 & 24 through 25 & 36; 19S, 68W, 6th: All Sections; 19S, 69W, 6th: All Sections; 19S, 70W, 6th: All Sections; 19S, 71W, 6th: All Sections; 19S, 72W, 6th: Sections 23 through 28 & 32 through 36; 19S, 73W, 6th: Section 1; 20S, 68W, 6th: Sections 1 through 34; 20S, 69W, 6th: Sections 2 through 10, 17 & 18; 20S, 70W, 6th: Sections 1 through 24, 26 through 34; 20S, 71W, 6th: All Sections; 20S, 72W, 6th: All Sections; 20S, 73W, 6th: Sections 1, 12 through 15, 21 through 28 & 32 through 36; 21S, 70W, 6th: Sections 5 through 8, 16 through 22 & 27 through 33; 21S, 71W, 6th: All Sections; 21S, 72W, 6th: All Sections; 21S, 73W, 6th: Sections 1 through 5, 9 through 15, 22 through 26 & 35 through 36; 22S, 70W, 6th: Sections 4 through 6; 22S, 71W, 6th: Sections 1 through 12, 15 through 22 & 27 through 28; 22S, 72W, 6th: Sections 1 through 24 & 27 through 31; 22S, 73W, 6th: Sections 1 through 4, 9 through 16, 21 through 25, 27 through 28 & 36; 50N, 12E, NMPM: Sections 1 through 4, 9 through 12, 14 through 15 & 22 through 23; 51N, 11E, NMPM: Sections 1, 12 through 13, 24 through 25 & 36; 51N, 12E, NMPM: All Sections. **Exhibits B-F** are on file with the Court.

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**CASE NO. 2018CW3077 - COLORADO DIVISION OF PARKS AND WILDLIFE AND THE PARKS AND WILDLIFE COMMISSION, 6060 Broadway, Denver, CO 80216**

(Please address all correspondence and inquiries regarding this matter to: Heather A. Warren, (720) 508-6266 heather.warren@coag.gov; Elizabeth M. Joyce, (720) 508-6429 elizabeth.joyce.@coag.gov, Joseph G. Phillips, (720) 508-6265 joe.phillips@coag.gov, Assistant Attorneys General, 1300 Broadway, 7th Floor, Denver CO 80203.)

Application for Conditional and Absolute Ground Water Rights, Water Storage Rights, Appropriative Rights of Exchange, and Approval of Plan for Augmentation

**TELLER AND PUEBLO COUNTIES**

**2. General Description of Application**. CPW owns and manages Mueller State Park, located west of Pikes Peak along State Highway 67, approximately 3.5 miles south of Divide, Colorado. CPW seeks absolute and conditional water rights for recreational, commercial and other beneficial uses for six ground water wells and six ponds at Mueller State Park and approval of a plan for augmentation and conditional appropriative rights

of substitution and exchange to replace out-of-priority depletions resulting from operation of the wells and ponds located in the Park. **FIRST CLAIM – GROUND WATER RIGHTS.**

**3. Application for Ground Water Rights.** CPW seeks absolute and conditional ground water rights for the following wells for uses within Mueller State Park, including for fire protection (referred to collectively as the “Mueller SP Wells”). Mueller SP Wells deplete both Hay Creek and Fourmile Creek; CPW seeks rights to withdraw up to 10 AF annually from those wells depleting Hay Creek, and to withdraw up to 10 AF annually from those wells depleting Fourmile Creek, but CPW will not withdraw more than 10 AF annually from all wells combined. Maps depicting the locations of the Mueller SP Wells are attached to the Application as Exhibit A. The well permits are attached to the Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Mueller SP Wells are not the subject of or included in any prior decree. **a. Shop Well:** Well Permit No. 295986. i. Legal description of point of diversion: NWNW Sec. 36, T13S, R70W, 6th P.M., Teller County, Colorado, feet from the Section Line and feet from the Section Line (UTM Coordinates: 1983 Zone 13 E: 484601; N: 4303722). ii. Source: Ground water tributary to Fourmile Creek, tributary to the Arkansas River. iii. Depth of well: 100 feet. iv. Date of appropriation: October 20, 2014. v. How appropriation was initiated: By application of water to commercial use; for livestock watering, by CPW’s formation of the intent to use the water and filing of the application in this case. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE for commercial use; 15.0 g.p.m. CONDITIONAL for livestock watering. vii. Date water applied to beneficial use: October 20, 2014, for commercial use. **b. Homestead Well No. 1:** Well Permit No. 277383. i. Legal description of point of diversion: SESE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484230.7; N: 4304094.5). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 400 feet. iv. Date of appropriation: May 2, 2008. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: May 2, 2008. **c. Homestead Well No. 2:** Well Permit No. 277385. i. Legal description of point of diversion: NWSE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 483776.5; N: 4304733.4). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 150 feet. iv. Date of appropriation: May 2, 2008. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: May 2, 2008. **d. Cabin Well No. 1:** Well Permit No. 254253. i. Legal description of point of diversion: SENE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484482; N: 4304773). ii. Source: Ground water tributary to Fourmile Creek, tributary to the Arkansas River. iii. Depth of well: 300 feet. iv. Date of appropriation: December 2, 2003. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: December 2, 2003. viii. Other remarks: The well permit for this well erroneously states that the structure is located in Water Division 1; however, based on the UTM coordinates listed on the well permit this well is located in Water Division 2. **e. Cabin Well No. 2:** Well Permit No. 24250. i. Legal description of point of diversion: NWSW Sec. 25, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484616; N: 4304691). ii. Source: Ground water tributary to Fourmile

Creek, tributary to the Arkansas River. iii. Depth of well: 300 feet. iv. Date of appropriation: December 2, 2003. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: December 2, 2003. viii. Other remarks: The well permit for this well erroneously states that the structure is located in Water Division 1; however, based on the UTM coordinates listed on the well permit this well is located in Water Division 2. **f. Camper Services Well**: No well permit. i. Legal description of point of diversion: SWNE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484020.6; N: 4304739.5). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 150 feet. iv. Date of appropriation: January 5, 2018. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: January 5, 2018. viii. Other remarks: This well does not have a well permit. **SECOND CLAIM – WATER STORAGE RIGHTS. 4. Application for Water Storage Rights.** CPW seeks absolute and conditional water storage rights for the following ponds (referred to collectively as the “Mueller SP Ponds”). Maps depicting the locations of the Mueller SP Ponds are attached to the Application as Exhibit A. The Mueller SP Ponds are not the subject of or included in any prior decree. **CLAIM 1**: CPW claims CONDITIONAL water storage rights for each of the Mueller SP Ponds for augmentation and exchange uses in the amount claimed for the capacity of each pond, with an appropriation date of December 31, 2018. Appropriation was initiated by CPW’s formation of the intent to use the water for the claimed conditional uses and filing of the application in this case. **CLAIM 2**: CPW claims ABSOLUTE water storage rights for each of the Mueller SP Ponds for commercial, livestock watering, aesthetic, recreational, wildlife, piscatorial and fire protection uses, with an appropriation date of June 1, 1980. Appropriation was initiated by CPW’s acquisition of the Mueller State Park property and ponds, and use of the ponds for the claimed absolute uses. Water was applied to the claimed absolute beneficial uses as of June 1, 1980. **a. Dragonfly Pond.** i. Location of dam centerline: NENW Sec. 36, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484964.9; N: 4303608.7). ii. Source: Unnamed tributary to Fourmile Creek, tributary to the Arkansas River. iii. Amount claimed: 1.15 acre-feet, with one refill. iv. Surface area of high water line: 0.41 acres. v. Total capacity: 1.15 AF (active capacity: 1.15 AF; dead storage: 0.00 AF). **b. Geer Pond.** i. Location of dam centerline: NWNW Sec. 35, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 483033.3; N: 4303670.1). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 4.40 acre-feet, with one refill. iv. Surface area of high water line: 1.23 acres. v. Total capacity: 4.40 AF (active capacity: 4.40 AF; dead storage: 0.00 AF). **c. Rock Pond.** i. Location of dam centerline: NESE Sec. 34, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 482642.6; N: 4302911.3). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 2.94 acre-feet, with one refill. iv. Surface area of high water line: 0.58 acres. v. Total capacity: 2.94 AF (active capacity: 2.94 AF; dead storage: 0.00 AF). **d. Brook Pond.** i. Location of dam centerline: NESE Sec. 34, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 482895.0; N: 4302892.2). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 5.02 acre-feet, with one refill. iv. Surface area of high water



line: 0.84 acres. v. Total capacity: 5.02 AF (active capacity: 5.02 AF; dead storage: 0.00 AF). **e. Entrance Pond – East.** i. Location of dam centerline: SWSW Sec. 30, T13S, R69W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 486257; N: 4304109). ii. Source: Unnamed tributary to Four Mile Creek, tributary to the Arkansas River. iii. Amount claimed: .038 acre-feet, with one refill. iv. Surface area of high water line: 0.041 acres. v. Total capacity: 0.038 AF (active capacity: 0.038 AF; dead storage: 0.00 AF). **f. Entrance Pond – West.** i. Location of dam centerline: SWSW Sec. 30, T13S, R69W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 486228; N: 4304114.6). ii. Source: Unnamed tributary to Four Mile Creek, tributary to the Arkansas River. iii. Amount claimed: 0.055 acre-feet, with one refill. iv. Surface area of high water line: 0.051 acres. v. Total capacity: 0.055 AF (active capacity: 0.055 AF; dead storage: 0.00 AF). **THIRD CLAIM – PLAN FOR AUGMENTATION. 5. Description of Plan for Augmentation.** Applicant seeks to augment out of priority depletions arising from use of the Mueller SP Wells, as well as from any replacement wells or supplemental wells, and out of priority depletions arising from the Mueller SP Ponds or other storage structures located at Mueller State Park, to supply water for commercial, livestock watering, aesthetic, recreational, wildlife, piscatorial and fire protection uses at Mueller State Park. **a. Structures to be Augmented:** i. Mueller SP Wells: The Mueller SP Wells are described above in ¶3. ii. Mueller SP Ponds: The Mueller SP Ponds are described above in ¶4. **b. Sources of Replacement Water.** i. Fully consumable Pueblo Reservoir water stored in Mt. Pisgah Reservoir: Through an agreement with the Board of Pueblo Water Works (“PBWW”), Applicant has the right to use fully consumable water stored in Pueblo Reservoir. The PBWW Water Exchange Agreement is attached to the Application as Exhibit C. Applicant also has an agreement to lease 10 acre-feet of storage space in Mt. Pisgah Reservoir from the Catlin Canal Company. The Catlin Canal Company Agreement for Lease of Storage Space is attached to the Application as Exhibit D. Applicant will store up to 10 acre-feet per year of its Pueblo Reservoir water in Mt. Pisgah Reservoir for use in the augmentation plan. Applicant’s Pueblo Reservoir water will be delivered to Mt. Pisgah Reservoir by use of a book-over or paper exchange of water from Pueblo Reservoir. Under the foregoing agreements, Applicant’s water stored in Pueblo Reservoir will be transferred on paper to Mt. Pisgah Reservoir and an equivalent amount of water will be stored in Mt. Pisgah Reservoir. The dam for Mt. Pisgah Reservoir is located across the natural stream bed of Four Mile Creek situated in the E1/2NW1/4 of Section 31, T14S, R70W, 6th P.M., Teller County, Colorado. The Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, in T20S, R66W, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in T21S, R66W, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in T20S, R67W, 6th P.M., Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, T20S, R66W of the 6th P.M., from which the NE corner of said Section bears N 61° 21’ 20” E, a distance of 2,511.05’. ii. Mueller SP Ponds: Mueller SP Ponds are described above in ¶4. iii. Additional replacement sources. Water from additional and alternative sources may be used in this plan for augmentation if such sources are decreed or lawfully available for such use or are part of a substitute water supply plan approved by the State Engineer pursuant to §37-92-308, C.R.S., or an interruptible supply agreement approved under §37-92-309, C.R.S., or other applicable and/or successor statutes. **c. Augmentation Plan.** i. Out-of priority depletions may occur

as a result of: a) operation of the Mueller SP Wells; b) evaporative losses from the Mueller SP Ponds; and/or c) storage of natural inflows into the Mueller SP Ponds. Shop Well, Cabin Well No. 1, Cabin Well No. 2, Dragon Fly Pond, Entrance Pond – West, and Entrance Pond – East are located in the Fourmile Creek drainage basin and will deplete Fourmile Creek in the NW 1/4 of Section 31, Township 13 South, Range 69 West of the 6th P.M., Teller County, Colorado. Camper Services Well, Homestead Well No. 1 and Homestead Well No. 2 are located in the Hay Creek drainage basin and will deplete Hay Creek in the SE 1/4 of Section 26, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. Geer Pond is located on Hay Creek and will deplete Hay Creek in the NW 1/4 of Section 35, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. Rock Pond and Brook Pond are located on a tributary to Hay Creek. Rock Pond and Brook Pond will deplete Hay Creek in the SE 1/4 of Section 34, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. ii. Amount of depletions. Applicant estimated gross depletions (i.e., well pumping and pond evaporation) and gross accretions (i.e., septic disposal system returns) to each drainage basin to determine the net depletive effect to each drainage basin resulting from operation of the Mueller SP Wells and Mueller SP Ponds. Net depletions will be calculated by drainage basin by adding septic return flow accretions to gross well pumping and pond evaporative depletions. Estimates were based on expected future water pumping at Mueller SP of 9.4 acre-feet per year, net depletions equal to approximately 1.0 acre-foot per year, and evaporative losses totaling approximately 8.1 acre-feet per year. Of the total depletion (approximately 9.1 acre-feet per year), approximately 7.1 acre-feet per year will occur to Hay Creek and approximately 2.0 acre-feet per year will occur to Four Mile Creek. iii. Timing of depletions. Monthly depletions from the Mueller SP Wells and the Mueller SP Ponds will be lagged to Hay Creek and Fourmile Creek using Glover Method as contained in the Alluvial Water Accounting System (AWAS) model and site specific parameter values. iv. Replacement of depletions. When calls senior to the priority dates of the water rights decreed herein are located below Mt. Pisgah Reservoir, CPW will release its stored water from Mt. Pisgah Reservoir or from Mueller SP Ponds on a daily basis, or on a frequency as requested by the Division Engineer or Water Commissioner, so as to replace the net depletions. When calls senior to the priority dates of the water rights decreed herein are located above Mt. Pisgah Reservoir on either Hay Creek or Four Mile Creek, Applicant will release water from one or more of the Mueller SP Ponds. More specifically, water stored in Dragonfly Pond, Entrance Pond – East, and Entrance Pond - West can be used to replace depletions on Fourmile Creek upstream of Mt. Pisgah Reservoir. Releases from Geer, Rock and Brook Ponds can be used to replace depletions on Hay Creek upstream of Mt. Pisgah Reservoir. v. Measurement of diversions. Mueller SP Ponds will be equipped with staff gages to determine storage volumes, exposed water surface area, and evaporative losses and structures capable of controlling and measuring outflows from the ponds. Inflows to the Mueller SP Ponds will be calculated using a mass balance approach. vi. Replacement water deliveries. CPW will release water from Mt. Pisgah Reservoir or from the Mueller SP Ponds to replace out of priority depletions. At the end of each year of operation, CPW will provide a report to the Division Engineer showing total diversions in that year and depletions caused by those diversions. vii. Transit losses. When replacement water is released at locations upstream of locations of depletions, transit losses will be assessed at the rate prescribed by the Division Engineer.

viii. Accounting. CPW will account for the depletions and amounts of replacement water under this augmentation plan. An accounting report will be submitted to the Division Engineer no later than February 15 annually. The report will contain monthly summaries of the depletions from the Mueller SP Wells and Mueller SP Ponds. The report will also contain a follow-up Glover analysis, using the actual diversions from each year, specifying the actual depletion volumes and dates on which depletions will occur. During years in which replacement releases are made, an accounting report will be provided to the Division Engineer specifying the location, timing, rate, and volume of replacement water releases. ix. No change of water rights. CPW does not seek a change of water rights with this application. x. Appropriative rights of substitution and exchange. In order to operate the proposed plan of augmentation, exchanges will be necessary to move water from Mt. Pisgah Reservoir to the Mueller SP Ponds for subsequent release. The exchanges are claimed in ¶6 below. **FOURTH CLAIM – APPROPRIATIVE RIGHTS OF EXCHANGE. 6. Application for Conditional Appropriative Rights of Exchange. CLAIM 1:** CPW claims a CONDITIONAL appropriative right of exchange from Pueblo Reservoir to Mt. Pisgah Reservoir. **CLAIM 2:** CPW claims CONDITIONAL appropriative rights of exchange from Mt. Pisgah Reservoir to each of the Mueller SP Ponds. **CLAIM 3:** CPW claims CONDITIONAL appropriative rights of exchange from Pueblo Reservoir to each of the Mueller SP Ponds. The exchange rates below are in CFS:

Exchange From	Exchange To						
	Mt Pisgah Reservoir	Rock Creek Pond	Brook Pond	Geer Pond	Dragon Fly Pond	Entrance Pond - West	Entrance Pond - East
Pueblo Reservoir	5.00	6.86	6.86	6.86	6.86	6.86	6.86
Mt Pisgah Reservoir	----	6.86	6.86	6.86	6.86	6.86	6.86

**a. Legal description of the structures from which substitute water supplies will be released (exchange from points) and the structures where water will be stored by exchange for subsequent release for augmentation purposes (exchange to points):**

Description	Structure Name	Lat/Long Coordinates	UTM Coordinates	PLSS Location
Exchange-From Point	Pueblo Reservoir	38.268533 -104.725341	E: 524026.8 N: 4235644.6	SWNE of Sec. 36, T20S, R66W
Exchange-From Point	Mt Pisgah Reservoir	38.793971 -105.271490	E: 476424 N: 4293948	SENE of Sec. 31, T14S, R70W
Exchange-To Point	Mt Pisgah Reservoir	38.793971 -105.271490	E: 476424 N: 4293948	SENE of Sec. 31, T14S, R70W
Exchange-To Point	Dragonfly Pond	38.881219 -105.173351	E: 484964.9 N: 4303608.7	NENE of Sec. 36, T13S, R70W
Exchange-To Point	Brook Pond	38.874720 -105.197199	E: 482895 N: 4302892.2	NESE of Sec. 34, T13S, R70W
Exchange-To Point	Rock Pond	38.874886 -105.200104	E: 482642.6 N: 4302911.3	NESE of Sec. 34, T13S, R70W

Exchange-To Point	Geer Pond	38.881733 -105.195627	E: 483033.3 N: 4303670.1	NWNW of Sec. 35, T13S, R70W
Exchange-To Point	Entrance Pond – East	38.885746 -105.158466	E: 486257 N: 4304109	SWSW of Sec. 30, T13S, R69W
Exchange-To Point	Entrance Pond – West	38.885799 -105.158800	E: 486228 N: 4304114.6	SWSW of Sec. 30, T13S, R69W

**b. Exchange reaches:** The claimed exchange reaches are from Pueblo Reservoir to Mt. Pisgah Reservoir, from Mt. Pisgah Reservoir to the Mueller SP Ponds, and from Pueblo Reservoir to the Mueller SP Ponds described above in ¶6.a. **c. Date of initiation of appropriation for the proposed exchanges:** December 31, 2018. **d. How appropriation was initiated:** By formation of intent to appropriate this right of exchange, by filing of the application, and by public notice of the application. **e. Date exchange exercised:** Not applicable. **f. Physical exchange rate claimed.** The combined exchange amount for all structures identified in ¶8.a. will not exceed a combined maximum flow rate of 6.86 c.f.s., or a combined annual maximum volumetric limit of 37.21 acre-feet per year, CONDITIONAL. The rate is based on the rate at which the combined storage in the Mueller SP ponds could be filled in a single day. The volume is based on a single exchange to Mt. Pisgah Reservoir (10.0 acre-feet), and exchanges to twice fill the Mueller SP ponds (27.21 acre-feet). **g. Use or Proposed Use.** The exchanged water will be used for all beneficial uses and purposes for which the water rights identified in ¶3 and ¶4 above are decreed. The substitute supply that the Applicant delivers to the downstream users becomes the water of the downstream users with the same legal characteristics of the water they would have received had the Applicant not conducted the exchanges. The water diverted by exchange by the Applicant will have the same legal characteristics as the water released by the Applicant at the points described above. **h. Substitute Water.** The substituted water identified herein is of a quality and continuity to meet the requirements for which the water of the senior appropriation normally has been used. **7. Integrated System.** The conditional ground water rights and water storage rights and appropriative exchange rights that are the subject of this Application are part of this integrated water system comprising all water rights decreed and used for operation of the Applicant's water supply system for Mueller State Park. Applicant requests that reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. **8. Names and addresses of owners or reputed owners of land upon which any new or existing diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing pool.** **a.** Applicant owns the lands upon which the Mueller SP Wells and Mueller SP Ponds are located. **b.** Mt. Pisgah Reservoir (a/k/a Wrights Reservoir) is located on lands owned by Pisgah Reservoir and Ditch Company, c/o Catlin Canal Company, P.O. Box 328, Rocky Ford, Colorado, 81067. **c.** Pueblo Reservoir is located on land owned by the U. S. Department of the Interior, Bureau of Reclamation, 11056 W. County Road, 18E, Loveland, Colorado 80537- 9711. WHEREFORE, CPW requests the Court to enter a decree approving the ground water rights, water storage rights, appropriative rights of exchange and plan for augmentation requested herein and

determining that such claims for ground water rights, water storage rights, appropriative rights of exchange and plan for augmentation will not cause injury to any vested water right or decreed conditional water right.

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THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of February 2019, (forms available at Clerk's office or at [www.courts.state.co.us](http://www.courts.state.co.us), after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

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Witness my hand and the seal of this Court this 4th day of January, 2019.

*Mardell R. DiDomenico*



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Mardell R. DiDomenico, Clerk  
District Court, Water Div. 2  
Pueblo Judicial Building  
501 N. Elizabeth Street, Suite 116  
Pueblo, CO 81003; (719) 404-8832

(Court seal)  
Published: January \_\_\_\_\_, 2019

## **SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST**

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., and notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II).

This notice is an invitation to be included on the SWSP notification list. To receive this information by e-mail, provide your name, e-mail address, daytime telephone number, and the water divisions of interest. If you prefer to be noticed by first-class mail, specify that preference and provide your mailing address. Submit the information to: Substitute Water Supply Plan Notification List (c/o Laura Kalafus, Program Assistant), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, or e-mail to: [Laura.kalafus@state.co.us](mailto:Laura.kalafus@state.co.us). Additional information regarding Substitute Water Supply Plans is available on the Division of Water Resources' website at <http://water.state.co.us>.

## **PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST**

Pursuant to Rule 17.5.B.2 of the Produced Nontributary Ground Water Rules, 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5.B.2 of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division an invitation to be included on such notification list for the applicable water division.

To receive this information by e-mail, provide your name, e-mail address, daytime telephone number, and the water divisions of interest. If you prefer to be noticed by first-class mail, specify that preference and provide your mailing address. Submit the information to: Produced Nontributary Ground Water Notification List (c/o Laura Kalafus, Program Assistant), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, or e-mail to: [Laura.kalafus@state.co.us](mailto:Laura.kalafus@state.co.us).

Any additional information regarding the Produced Nontributary Ground Water Rules can be found on the Division of Water Resources website at: [www.water.state.co.us](http://www.water.state.co.us).